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RÅDET

RÅDETS AFGØRELSE

af 22. oktober 1999

om indgåelse af protokollen om særligt beskyttede områder og den biologiske mangfoldighed i Middelhavet samt om godkendelse af bilagene til den nævnte protokol (Barcelona-konventionen)

(1999/800/EF)

RÅDET FOR DEN EUROPÆISKE UNION HAR —

under henvisning til traktaten om oprettelse af Det Europæiske Fællesskab, særlig artikel 175, stk. 1, sammenholdt med artikel 300, stk. 2, første punktum, og stk. 3, første afsnit,

under henvisning til forslag fra Kommissionen,

under henvisning til udtalelse fra Europa-Parlamentet ⁽¹⁾, og

ud fra følgende betragtninger:

- 1) Fællesskabet er kontraherende part i konventionen om beskyttelse af Middelhavet mod forurening ⁽²⁾, i det følgende benævnt »Barcelona-konventionen«; Fællesskabet har ligeledes indgået fire af de protokoller, der er vedtaget som led i Barcelona-konventionen, nemlig protokollen om forebyggelse af forurening af Middelhavet ved dumpning ⁽²⁾, protokollen om samarbejde om bekæmpelse af forurening med olie og andre skadelige stoffer ⁽³⁾, protokollen om landbaseret forurening ⁽⁴⁾ og protokollen om særligt beskyttede områder ⁽⁵⁾;
- 2) Kommissionen har på Fællesskabets vegne, i den af parterne i Barcelona-konventionen nedsatte arbejdsgruppe, deltaget i forhandlingerne om protokollen om særligt beskyttede områder og den biologiske mangfoldighed i

Middelhavet; denne protokol skal, i overensstemmelse med samme protokols artikel 32, ved sin ikrafttræden erstatte den første udgave af protokollen om særligt beskyttede områder i Middelhavet;

- 3) Kommissionen undertegnede den 10. juni 1995, i Barcelona, den nye protokol om særligt beskyttede områder og den biologiske mangfoldighed i Middelhavet, i det følgende benævnt »protokollen«;
- 4) ud over bestemmelserne om beskyttelse af områder af betydning for Middelhavet skal der i henhold til den nye udgave af protokollen udarbejdes lister over truede og sårbare arter og arter, hvis udnyttelse er reguleret (bilag til protokollen);
- 5) i medfør af slutakten fra de befuldmægtigedes konference (Barcelona, den 9. og 10. juni 1995), hvor protokollen blev vedtaget og undertegnet, skulle bilagene til protokollen vedtages på et senere møde for de befuldmægtigede;
- 6) bilagene blev vedtaget på de befuldmægtigedes konference i Monaco den 24. november 1996 efter afholdelsen af et ekspertmøde den 23. november 1996 bilagene var åbne for undertegnelse på denne konference; Kommissionen var ikke bemyndiget til at repræsentere Fællesskabet;
- 7) de i Middelhavsområdet beliggende medlemsstater, der er kontraherende parter i Barcelona-konventionen og i protokollerne hertil, var til stede på de befuldmægtigedes konference og undertegnede bilagene; de erklærede dog i slutakten fra konferencen, at de med hensyn til de aspekter ved bilagene, der henhører under Fællesskabets beføjelser, kun ville træffe de eventuelle fornødne foranstaltninger, hvis Fællesskabet tilsluttede sig de nævnte bilag;

⁽¹⁾ EFT C 219 af 30.7.1999, s. 186.

⁽²⁾ Afgørelse 77/585/EØF (EFT L 240 af 19.9.1977, s. 1).

⁽³⁾ Afgørelse 81/420/EØF (EFT L 162 af 19.6.1981, s. 4).

⁽⁴⁾ Afgørelse 83/101/EØF (EFT L 67 af 12.3.1983, s. 1).

⁽⁵⁾ Afgørelse 84/132/EØF (EFT L 68 af 10.3.1984, s. 36).

- 8) i medfør af traktatens artikel 174 bidrager Fællesskabets politik på miljøområdet bl.a. til bevarelse, beskyttelse og forbedring af miljøkvaliteten og til fremme på internationalt plan for foranstaltninger til løsning af de regionale og globale miljøproblemer;
- 9) protokollen og bilagene hertil dækker Fællesskabets beføjelser på miljøområdet (direktiv 79/409/EØF om beskyttelse af vilde fugle⁽¹⁾ og direktiv 92/43/EØF om beskyttelse af naturtyper samt vilde dyr og planter⁽²⁾) og omfatter arter, hvis udnyttelse er reguleret som led i den fælles fiskeripolitik; Fællesskabet sørger i denne forbindelse for, at indgåelsen af disse internationale aftaler ikke er i strid med eller ændrer anvendelsesområdet for den gældende fællesskabsret —

TRUFFET FØLGENDE AFGØRELSE:

Artikel 1

1. Protokollen om særligt beskyttede områder og den biologiske mangfoldighed i Middelhavet og bilagene hertil godkendes på Fællesskabets vegne.
2. Teksten til protokollen og til bilagene hertil er knyttet til denne afgørelse.

⁽¹⁾ EFT L 103 af 25.4.1979, s. 1. Direktivet er senest ændret ved direktiv 97/49/EF (EFT L 223 af 13.8.1997, s. 9).

⁽²⁾ EFT L 206 af 22.7.1992, s. 7. Direktivet er senest ændret ved direktiv 97/62/EF (EFT L 305 af 8.11.1997, s. 42).

Artikel 2

1. Rådets formand deponerer på Fællesskabets vegne instrumentet for indgåelse af protokollen om særligt beskyttede områder og den biologiske mangfoldighed i Middelhavet hos depositaren, i overensstemmelse med protokollens artikel 30⁽³⁾.

2. Rådets formand meddeler på Fællesskabets vegne godkendelsen af bilagene til protokollen om særligt beskyttede områder og den biologiske mangfoldighed i Middelhavet, i overensstemmelse med artikel 16 i konventionen om beskyttelse af Middelhavet mod forurening⁽⁴⁾. Fællesskabets godkendelse ledsages af følgende erklæring: »Fællesskabet deltager i gennemførelsen af bilagenes bestemmelser gennem oprettelse af Natura-2000-nettet«.

Artikel 3

Denne afgørelse offentliggøres i *De Europæiske Fællesskabers Tidende*.

Den har virkning fra dagen for vedtagelsen.

Udfærdiget i Luxembourg, den 22. oktober 1999.

På Rådets vegne
S. MÖNKÄRE
Formand

⁽³⁾ Ikrafttrædelsesdatoen for protokollen om særligt beskyttede områder og den biologiske mangfoldighed i Middelhavet offentliggøres i *De Europæiske Fællesskabers Tidende* på foranledning af Generalsekretariatet for Rådet for Den Europæiske Union.

⁽⁴⁾ Ikrafttrædelsesdatoen for bilagene til protokollen om særligt beskyttede områder og den biologiske mangfoldighed i Middelhavet offentliggøres i *De Europæiske Fællesskabers Tidende* på foranledning af Generalsekretariatet for Rådet for Den Europæiske Union.

PROTOCOL CONCERNING SPECIALLY PROTECTED AREAS AND BIOLOGICAL DIVERSITY IN THE MEDITERRANEAN

THE CONTRACTING PARTIES TO THIS PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,

CONSCIOUS of the profound impact of human activities on the state of the marine environment and the littoral and more generally on the ecosystems of areas having prevailing Mediterranean features,

STRESSING the importance of protecting and, as appropriate, improving the state of the Mediterranean natural and cultural heritage, in particular through the establishment of specially protected areas and also by the protection and conservation of threatened species,

CONSIDERING the instruments adopted by the United Nations Conference on Environment and Development and particularly the Convention on Biological Diversity (Rio de Janeiro, 1992),

CONSCIOUS that when there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be invoked as a reason for postponing measures to avoid or minimise such a threat,

CONSIDERING that all the Contracting Parties should cooperate to conserve, protect and restore the health and integrity of ecosystems and that they have, in this respect, common but differentiated responsibilities,

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Protocol:

(a) 'Convention' means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended at Barcelona in 1995;

(b) 'Biological diversity' means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;

(c) 'Endangered species' means any species that is in danger of extinction throughout all or part of its range;

(d) 'Endemic species' means any species whose range is restricted to a limited geographical area;

(e) 'Threatened species' means any species that is likely to become extinct within the foreseeable future throughout all or part of its range and whose survival is unlikely if the factors causing numerical decline or habitat degradation continue to operate;

(f) 'Conservation status of a species' means the sum of the influences acting on the species that may affect its long-term distribution and abundance;

(g) 'Parties' means the Contracting Parties to this Protocol;

(h) 'Organisation' means the organisation referred to in Article 2 of the Convention;

(i) 'Centre' means the Regional Activity Centre for Specially Protected Areas.

Article 2

Geographical coverage

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

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

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

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

Article 3

General obligations

1. Each Party shall take the necessary measures to:
 - (a) protect, preserve and manage in a sustainable and environmentally sound way areas of particular natural or cultural value, notably by the establishment of specially protected areas;
 - (b) protect, preserve and manage threatened or endangered species of flora and fauna.
2. The Parties shall cooperate, directly or through the competent international organisations, in the conservation and sustainable use of biological diversity in the area to which this Protocol applies.
3. The Parties shall identify and compile inventories of the components of biological diversity important for its conservation and sustainable use.
4. The Parties shall adopt strategies, plans and programmes for the conservation of biological diversity and the sustainable use of marine and coastal biological resources and shall integrate them into their relevant sectoral and intersectoral policies.
5. The Parties shall monitor the components of biological diversity referred to in paragraph 3 of this Article and shall identify processes and categories of activities which have or are

likely to have a significant adverse impact on the conservation and sustainable use of biological diversity, and monitor their effects.

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

PART II

PROTECTION OF AREAS

Section 1

Specially protected areas

Article 4

Objectives

The objective of specially protected areas is:

- (a) to safeguard representative types of coastal and marine ecosystems of adequate size to ensure their long-term viability and to maintain their biological diversity;
- (b) to safeguard habitats which are in danger of disappearing in their natural area of distribution in the Mediterranean or which have a reduced natural area of distribution as a consequence of their regression or on account of their intrinsically restricted area;
- (c) to safeguard habitats critical to the survival, reproduction and recovery of endangered, threatened or endemic species of flora or fauna;
- (d) to safeguard sites of particular importance because of their scientific, aesthetic, cultural or educational interest.

Article 5

Establishment of specially protected areas

1. Each Party may establish specially protected areas in the marine and coastal zones subject to its sovereignty or jurisdiction.
2. If a Party intends to establish, in an area subject to its sovereignty or national jurisdiction, a specially protected area contiguous to the frontier and to the limits of a zone subject to the sovereignty or national jurisdiction of another Party, the competent authorities of the two Parties shall endeavour to cooperate, with a view to reaching agreement on the measures

to be taken and shall, *inter alia*, examine the possibility of the other Party establishing a corresponding specially protected area or adopting any other appropriate measures.

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

4. If a state which is not a party to this Protocol intends to establish a specially protected area contiguous to the frontier and to the limits of a zone subject to the sovereignty or national jurisdiction of a Party to this Protocol, the latter shall endeavour to cooperate with that state as referred to in paragraph 2.

Article 6

Protection measures

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

- (a) the strengthening of the application of the other Protocols to the Convention and of other relevant treaties to which they are Parties;
- (b) the prohibition of the dumping or discharge of wastes and other substances likely directly or indirectly to impair the integrity of the specially protected area;
- (c) the regulation of the passage of ships and any stopping or anchoring;
- (d) the regulation of the introduction of any species not indigenous to the specially protected area in question, or of genetically modified species, as well as the introduction or reintroduction of species which are or have been present in the specially protected area;
- (e) the regulation or prohibition of any activity involving the exploration or modification of the soil or the exploitation of the subsoil of the land part, the seabed or its subsoil;
- (f) the regulation of any scientific research activity;
- (g) the regulation or prohibition of fishing, hunting, taking of animals and harvesting of plants or their destruction, as well as trade in animals, parts of animals, plants, parts of plants, which originate in specially protected areas;

- (h) the regulation and if necessary the prohibition of any other activity or act likely to harm or disturb the species or that might endanger the state of conservation of the ecosystems or species or might impair the natural or cultural characteristics of the specially protected area;
- (i) any other measure aimed at safeguarding ecological and biological processes and the landscape.

Article 7

Planning and management

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

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

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

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

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

Section 2

Specially protected areas of Mediterranean importance

Article 8

Establishment of the list of specially protected areas of Mediterranean importance

1. In order to promote cooperation in the management and conservation of natural areas, as well as in the protection of threatened species and their habitats, the Parties shall draw up a 'List of specially protected areas of Mediterranean importance', hereinafter referred to as the 'SPAMI list'.

2. The SPAMI list may include sites which:

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

3. The Parties agree:

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

Article 9

Procedure for the establishment and listing of SPAMIs

1. SPAMIs may be established, following the procedure provided for in paragraphs 2 to 4 of this Article; in: (a) the marine and coastal zones subject to the sovereignty or jurisdiction of the Parties; (b) zones partly or wholly on the high seas.

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

- (a) by the Party concerned, if the area is situated in a zone already delimited, over which it exercises sovereignty or jurisdiction;
- (b) by two or more neighbouring Parties concerned if the area is situated, partly or wholly, on the high sea;

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

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

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

(b) proposals made under paragraph 2 of this Article shall indicate the protection and management measures applicable to the area as well as the means of their implementation.

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

(a) for each area, the proposal shall be submitted to the National Focal Points, which shall examine its conformity with the common guidelines and criteria adopted pursuant to Article 16;

(b) if a proposal made in accordance with subparagraph 2(a) of this Article is consistent with the guidelines and common criteria, after assessment, the Organisation shall inform the meeting of the Parties, which shall decide to include the area in the SPAMI list;

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

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

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

Article 10

Changes in the status of SPAMIs

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

PART III

PROTECTION AND CONSERVATION OF SPECIES

Article 11

National measures for the protection and conservation of species

1. The Parties shall manage species of flora and fauna with the aim of maintaining them in a favourable state of conservation.
2. The Parties shall, in the zones subject to their sovereignty or national jurisdiction, identify and compile lists of the endangered or threatened species of flora and fauna and accord protected status to such species. The Parties shall regulate and, where appropriate, prohibit activities having adverse effects on such species or their habitats, and carry out management, planning and other measures to ensure a favorable state of conservation of such species.
3. With respect to protected species of fauna, the Parties shall control and, where appropriate, prohibit:
 - (a) the taking, possession or killing (including, to the extent possible, the incidental taking, possession or killing), the commercial trade, the transport and the exhibition for commercial purposes of these species, their eggs, parts or products;
 - (b) to the extent possible, the disturbance of wild fauna, particularly during the period of breeding, incubation, hibernation or migration, as well as other periods of biological stress.
4. In addition to the measures specified in the previous paragraph, the Parties shall coordinate their efforts, through bilateral or multilateral action, including if necessary, agreements for the protection and recovery of migratory species whose range extends into the area to which this Protocol applies.
5. With respect to protected species of flora and their parts and products, the Parties shall regulate, and where appropriate, prohibit all forms of destruction and disturbance, including the picking, collecting, cutting, uprooting, possession of, commercial trade in, or transport and exhibition for commercial purposes of such species.

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

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

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

Article 12

Cooperative measures for the protection and conservation of species

1. The Parties shall adopt cooperative measures to ensure the protection and conservation of the flora and fauna listed in the annexes to this Protocol relating to the list of endangered or threatened species and the list of species whose exploitation is regulated.
2. The Parties shall ensure the maximum possible protection and recovery of the species of fauna and flora listed in the Annex relating to the list of endangered or threatened species by adopting at the national level the measures provided for in paragraphs 3 and 5 of Article 11 of this Protocol.
3. The Parties shall prohibit the destruction of and damage to the habitat of species listed in the Annex relating to the list of endangered or threatened species and shall formulate and implement action plans for their conservation or recovery. They shall continue to cooperate in implementing the relevant action plans already adopted.
4. The Parties, in cooperation with competent international organisations, shall take all appropriate measures to ensure the conservation of the species listed in the Annex relating to the list of species whose exploitation is regulated while at the same time authorising and regulating the exploitation of these species, so as to ensure and maintain their favourable state of conservation.
5. When the range area of a threatened or endangered species extends to both sides of a national frontier or of the limit that separates the territories or the areas subject to the sovereignty or the national jurisdiction of two Parties to this Protocol, these Parties shall cooperate with a view to ensuring the protection and conservation and, if necessary, the recovery of such species.
6. Provided that no other satisfactory solutions are available and that the exemption does not harm the survival of the population or of any other species, the Parties may grant exemptions to the prohibitions prescribed for the protection of

the species listed in the annexes to this Protocol for scientific, educational or management purposes necessary to ensure the survival of the species or to prevent significant damage. Such exemptions shall be notified to the Contracting Parties.

Article 13

Introduction of non-indigenous or genetically modified species

1. The Parties shall take all appropriate measures to regulate the intentional or accidental introduction of non-indigenous or genetically modified species to the wild and prohibit those that may have harmful impacts on the ecosystems, habitats or species in the area to which this Protocol applies.

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

PART IV

PROVISIONS COMMON TO PROTECTED AREAS AND SPECIES

Article 14

Amendments to annexes

1. The procedures for amendments to the annexes to this Protocol shall be those set forth in Article 17 of the Convention.

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

Article 15

Inventories

Each Party shall compile comprehensive inventories of:

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

Article 16

Guidelines and common criteria

The Parties shall adopt:

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

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

Article 17

Environmental impact assessment

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

Article 18

Integration of traditional activities

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

- (a) endanger either the maintenance of ecosystems protected under this Protocol or the biological processes contributing to the maintenance of those ecosystems;
- (b) cause either the extinction of, or a substantial reduction in, the number of individuals making up the populations or species of flora and fauna in particular endangered, threatened, migratory or endemic species.

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

*Article 19***Publicity, information, public awareness and education**

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

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

*Article 20***Scientific, technical and management research**

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

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

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

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

*Article 21***Mutual cooperation**

1. The Parties shall, directly or with the assistance of the Centre or international organisations concerned, establish cooperation programmes to coordinate the establishment,

conservation, planning and management of specially protected areas, as well as the selection, management and conservation of protected species. There shall be regular exchanges of information concerning the characteristics of protected areas and species, the experience acquired and the problems encountered.

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

*Article 22***Mutual assistance**

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

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

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

*Article 23***Reports of the Parties**

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

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

PART V

INSTITUTIONAL PROVISIONS*Article 24***National Focal Points**

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

*Article 25***Coordination**

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

- (a) assisting the Parties, in cooperation with the competent international, intergovernmental and non-governmental organisations, in:
 - establishing and managing specially protected areas in the area to which this Protocol applies,
 - conducting programmes of technical and scientific research as provided for in Article 20 of this Protocol,
 - conducting the exchange of scientific and technical information among the Parties as provided for in Article 20 of this Protocol,
 - preparing management plans for specially protected areas and species,
 - developing cooperative programmes pursuant to Article 21 of this Protocol,
 - preparing educational materials designed for various groups;
- (b) convening and organising the meetings of the National Focal Points and providing them with secretariat services;
- (c) formulating recommendations on guidelines and common criteria pursuant to Article 16 of this Protocol;
- (d) creating and updating databases of specially protected areas, protected species and other matters relevant to this Protocol;
- (e) preparing reports and technical studies that may be required for the implementation of this Protocol;

- (f) elaborating and implementing the training programmes mentioned in Article 22(2);
- (g) cooperating with regional and international governmental and non-governmental organisations concerned with the protection of areas and species, provided that the specificity of each organisation and the need to avoid the duplication of activities are respected;
- (h) carrying out the functions assigned to it in the action plans adopted in the framework of this Protocol;
- (i) carrying out any other function assigned to it by the Parties.

*Article 26***Meetings of the Parties**

1. The ordinary meetings of the Parties to this Protocol shall be held in conjunction with the ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 14 of the Convention. The Parties may also hold extraordinary meetings in conformity with that Article.

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

- (a) keeping under review the implementation of this Protocol;
- (b) overseeing the work of the Organisation and of the Centre relating to the implementation of this Protocol and providing policy guidance for their activities;
- (c) considering the efficacy of the measures adopted for the management and protection of areas and species, and examining the need for other measures, in particular in the form of Annexes and amendments to this Protocol or to its Annexes;
- (d) adopting the guidelines and common criteria provided for in Article 16 of this Protocol;
- (e) considering reports transmitted by the Parties under Article 23 of this Protocol, as well as any other pertinent information which the Parties transmit through the Centre;
- (f) making recommendations to the Parties on the measures to be adopted for the implementation of this Protocol;
- (g) examining the recommendations of the meetings of the National Focal Points pursuant to Article 24 of this Protocol;
- (h) deciding on the inclusion of an area in the SPAMI list in conformity with Article 9(4) of this Protocol;
- (i) examining any other matter relevant to this Protocol, as appropriate;

(j) discussing and evaluating the exemptions allowed by the Parties in conformity with Articles 12 and 18 of this Protocol.

Article 30

Ratification, acceptance or approval

PART VI

FINAL PROVISIONS

Article 27

Effect of the Protocol on domestic legislation

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

Article 31

Accession

Article 28

Relationship with third parties

1. The Parties shall invite states that are not parties to the Protocol and international organisations to cooperate in the implementation of this Protocol.

2. The Parties undertake to adopt appropriate measures, consistent with international law, to ensure that no one engages in any activity contrary to the principles or purposes of this Protocol.

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.

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

Article 32

Entry into force

1. This Protocol shall enter into force on the 30th day following the deposit of the sixth instrument of ratification, acceptance or approval of, or accession to, the Protocol.

2. From the date of its entry into force, this Protocol shall replace the Protocol concerning Mediterranean specially protected areas of 1982, in the relationship among the Parties to both instruments.

Article 29

Signature

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

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

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

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ANNEX I

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

A. GENERAL PRINCIPLES

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

- (a) The conservation of the natural heritage is the basic aim that must characterise a SPAMI. The pursuit of other aims such as the conservation of the cultural heritage, and the promotion of scientific research, education, participation, collaboration, is highly desirable in SPAMIs and constitutes a factor in favour of a site being included on the list, to the extent in which it remains compatible with the aims of conservation.
- (b) No limit is imposed on the total number of areas included in the list or on the number of areas any individual Party can propose for inscription. Nevertheless, the Parties agree that sites will be selected on a scientific basis and included in the list according to their qualities; they will have therefore to fulfil the requirements set out by the Protocol and the present criteria.
- (c) The listed SPAMIs and their geographical distribution will have to be representative of the Mediterranean region and its biodiversity. To this end the list will have to represent the highest number possible of types of habitats and ecosystems.
- (d) The SPAMIs will have to constitute the core of a network aiming at the effective conservation of the Mediterranean heritage. To attain this objective, the Parties will develop their cooperation on bilateral and multilateral bases in the field of conservation and management of natural sites and notably through the establishment of transboundary SPAMIs.
- (e) The sites included in the SPAMI list are intended to have a value of example and model for the protection of the natural heritage of the region. To this end, the Parties ensure that sites included in the list are provided with adequate legal status, protection measures and management methods and means.

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

1. To be eligible for inclusion in the SPAMI list, an area must fulfil at least one of the general criteria set in Article 8(2) of the Protocol. Several of these general criteria can in certain cases be fulfilled by the same area, and such a circumstance cannot but strengthen the case for the inclusion of the area in the list.
2. The regional value is a basic requirement of an area for being included in the SPAMI list. The following criteria should be used in evaluating the Mediterranean interest of an area.
 - (a) *Uniqueness*

The area contains unique or rare ecosystems, or rare or endemic species.
 - (b) *Natural representativeness*

The area has highly representative ecological processes, or community or habitat types or other natural characteristics. Representativeness is the degree to which an area represents a habitat type, ecological process, biological community, physiographic feature or other natural characteristic.
 - (c) *Diversity*

The area has a high diversity of species, communities, habitats or ecosystems.
 - (d) *Naturalness*

The area has a high degree of naturalness as a result of the lack or low level of human-induced disturbance and degradation.
 - (e) Presence of habitats that are critical to endangered, threatened or endemic species.

(f) *Cultural representativeness*

The area has a high representative value with respect to the cultural heritage, due to the existence of environmentally sound traditional activities integrated with nature which support the well-being of local populations.

3. To be included in the SPAMI list, an area having scientific, educational or aesthetic interest must, respectively, present a particular value for research in the field of natural sciences or for activities of environmental education or awareness or contain outstanding natural features, landscapes or seascapes.
4. Besides the fundamental criteria specified in Article 8(2) of the Protocol, a certain number of other characteristics and factors should be considered as favourable for the inclusion of the site in the list. These include:
 - (a) the existence of threats likely to impair the ecological, biological, aesthetic or cultural value of the area;
 - (b) the involvement and active participation of the public in general, and particularly of local communities, in the process of planning and management of the area;
 - (c) the existence of a body representing the public, professional, non-governmental sectors and the scientific community involved in the area;
 - (d) the existence in the area of opportunities for sustainable development;
 - (e) the existence of an integrated coastal management plan within the meaning of Article 4(3)(e) of the Convention.

C. LEGAL STATUS

1. All areas eligible for inclusion in the SPAMI list must be awarded a legal status guaranteeing their effective long-term protection.
2. To be included in the SPAMI list, an area situated in a zone already delimited over which a Party exercises sovereignty or jurisdiction must have a protected status recognised by the Party concerned.
3. In the case of areas situated, partly or wholly, on the high sea or in a zone where the limits of national sovereignty or jurisdiction have not yet been defined, the legal status, the management plan, the applicable measures and the other elements provided for in Article 9(3) of the Protocol will be provided by the neighbouring Parties concerned in the proposal for inclusion in the SPAMI list.

D. PROTECTION, PLANNING AND MANAGEMENT MEASURES

1. Conservation and management objectives must be clearly defined in the texts relating to each site, and will constitute the basis for assessment of the adequacy of the adopted measures and the effectiveness of their implementation at the revisions of the SPAMI list.
2. Protection, planning and management measures applicable to each area must be adequate for the achievement of the conservation and management objectives set for the site in the short and long-term and take in particular into account the threats on it.
3. Protection, planning and management measures must be based on an adequate knowledge of the elements of the natural environment and of socioeconomic and cultural factors that characterise each area. In case of shortcomings in basic knowledge, an area proposed for inclusion in the SPAMI list must have a programme for the collection of the unavailable data and information.
4. The competence and responsibility with regard to administration and implementation of conservation measures for areas proposed for inclusion in the SPAMI list must be clearly defined in the texts governing each area.
5. In the respect of the specificity characterising each protected site, the protection measures for a SPAMI must take account of the following basic aspects:
 - (a) the strengthening of the regulation of the release or dumping of wastes and other substances likely directly or indirectly to impair the integrity of the area;

- (b) the strengthening of the regulation of the introduction or reintroduction of any species into the area;
 - (c) the regulation of any activity or act likely to harm or disturb the species, or that might endanger the conservation status of the ecosystems or species or might impair the natural, cultural or aesthetic characteristics of the area;
 - (d) the regulation applicable to the zones surrounding the area in question.
6. To be included in the SPAMI list, a protected area must have a management body, endowed with sufficient powers as well as means and human resources to prevent and/or control activities likely to be contrary to the aims of the protected area.
 7. To be included in the SPAMI list an area will have to be endowed with a management plan. The main rules of this management plan are to be laid down as from the time of inclusion and implemented immediately. A detailed management plan must be presented within three years of the time of inclusion. Failure to respect this obligation entails the removal of the site from the list.
 8. To be included in the SPAMI list, an area will have to be endowed with a monitoring programme. This programme should include the identification and monitoring of a certain number of significant parameters for the area in question, in order to allow the assessment of the state and evolution of the area, as well as the effectiveness of protection and management measures implemented, so that they may be adapted if need be. To this end further necessary studies are to be commissioned.
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ANNEX II

LIST OF ENDANGERED OR THREATENED SPECIES

Magnoliophyta

Posidonia oceanica
Zostera marina
Zostera noltii

Chlorophyta

Caulerpa ollivieri

Phaeophyta

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

Rhodophyta

Goniolithon byssoides
Lithophyllum lichenoides
Ptilophora mediterranea
Schimmelmannia shousboei

Porifera

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

Cnidaria

Astroides calycularis
Errina aspera
Gerardia savaglia

Echinodermata

Asterina pancerii
Centrostephanus longispinus
Ophiaster ophidianus

Bryozoa

Hornera lichenoides

Mollusca

Ranella olearia
 (= *Argobuccinum olearium* = *A. giganteum*)
Charonia lampas (= *Ch. rubicunda* = *Ch. nodifera*)
Charonia tritonis (= *Ch. seguenziae*)
Dendropoma petraeum
Erosaria spurca
Gibbula nivosa
Lithophaga lithopaga
Luria lurida (= *Cypraea lurida*)

Mitra zonata
Patella ferruginea
Patella nigra
Pholas dactylus
Pinna nobilis
Pinna rudis (= *P. permula*)
Schilderia achatidea
Tonna galea
Zonaria pyrum

Crustacea

Ocypode cursor
Pachylasma giganteum

Pisces

Acipenser naccarii
Acipenser sturio
Aphanius fasciatus
Aphanius iberus
Cetorhinus maximus
Carcharodon carcharias
Hippocampus ramulosus
Hippocampus hippocampus
Huso huso
Lethenteron zanandreai
Mobula mobular
Pomatoschistus canestrinii
Pomatoschistus tortonesei
Valencia hispanica
Valencia letourneuxi

Reptiles

Caretta caretta
Chelonia mydas
Dermodochelys coriacea
Eretmodochelys imbricata
Lepidochelys kempii
Trionyx triunguis

Aves

Pandion haliaetus
Calonectris diomedea
Falco eleonorae
Hydrobates pelagicus
Larus audouinii
Numenius tenuirostris
Phalacrocorax aristotelis
Phalacrocorax pygmaeus
Pelacanus onocrotalus
Pelecanus crispus
Phoenicopterus ruber
Puffinus yelkouan
Sterna albifrons
Sterna bengalensis
Sterna sandvicensis

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

ANNEX III

LIST OF SPECIES WHOSE EXPLOITATION IS REGULATED

Porifera

Hippospongia communis
Spongia agaricina
Spongia officinalis
Spongia zimocca

Cnidaria

Antipathes sp. plur.
Corallium rubrum

Echinodermata

Paracentrotus lividus

Crustacea

Homarus gammarus
Maja squinado
Palinurus elephas
Scyllarides latus
Scyllarus pigmaeus
Scyllarus arctus

Pisces

Alosa alosa
Alosa fallax
Anguilla anguilla
Epinephelus marginatus
Isurus oxyrinchus
Lamna nasus
Lampetra fluviatilis
Petromyzon marinus
Prionace glauca
Raja alba
Sciaena umbra
Squatina squatina
Thunnus thynnus
Umbrina cirrosa
Xiphias gladius

RÅDETS AFGØRELSE

af 22. oktober 1999

om godkendelse af ændringerne til den reviderede protokol om beskyttelse af Middelhavet mod landbaseret forurening (Barcelona-konventionen)

(1999/801/EF)

RÅDET FOR DEN EUROPÆISKE UNION HAR —

under henvisning til traktaten om oprettelse af Det Europæiske Fællesskab, særlig artikel 175, stk. 1, sammenholdt med artikel 300, stk. 2, første punktum, og stk. 3, første afsnit,

under henvisning til forslag fra Kommissionen,

under henvisning til udtalelse fra Europa-Parlamentet⁽¹⁾, og

ud fra følgende betragtninger:

- 1) Fællesskabet er kontraherende part i konventionen om beskyttelse af Middelhavet mod forurening, i det følgende benævnt »Barcelona-konventionen«⁽²⁾; Fællesskabet har ligeledes indgået fire af de protokoller, der er vedtaget som led i Barcelona-konventionen, nemlig protokollen om forebyggelse af forurening af Middelhavet ved dumpning⁽³⁾, protokollen om samarbejde om bekæmpelse af forurening med olie og andre skadelige stoffer⁽³⁾, protokollen om landbaseret forurening⁽⁴⁾ og protokollen om særligt beskyttede områder⁽⁵⁾;
- 2) Kommissionen har på Fællesskabets vegne deltaget i forhandlingerne om revisionen af protokollen om beskyttelse af Middelhavet mod landbaseret forurening, i det følgende benævnt »protokollen«;
- 3) i medfør af traktatens artikel 174 bidrager Fællesskabets politik på miljøområdet bl.a. til bevarelse, beskyttelse og forbedring af miljøkvaliteten og til fremme på internationalt plan for foranstaltninger til løsning af de regionale og globale miljøproblemer;
- 4) anvendelsesområdet for ændringerne til protokollen henhører i hvert fald delvis under Fællesskabets beføjelser;

Fællesskabet har således vedtaget flere direktiver på dette område⁽⁶⁾; Fællesskabet sørger i denne forbindelse for, at indgåelsen af disse internationale aftaler ikke er i strid med eller ændrer anvendelsesområdet for den gældende fællesskabsret;

- 5) Fællesskabets tiltrædelse af den reviderede protokol bidrager til opfyldelsen af de i traktatens artikel 174 fastsatte mål;
- 6) den reviderede protokol blev vedtaget og åbnet for undertegnelse på de befuldmægtigedes konference i Siracusa, den 7. og 8. marts 1996;
- 7) Rådet traf afgørelse om undertegnelse af protokollen den 22. juli 1996; på denne dato var den reviderede protokol imidlertid ikke åben for undertegnelse —

TRUFFET FØLGENDE AFGØRELSE:

Artikel 1

Ændringerne til protokollen om beskyttelse af Middelhavet mod landbaseret forurening godkendes på Fællesskabets vegne.

Teksten til ændringerne er knyttet til denne afgørelse.

Artikel 2

Rådets formand er bemyndiget til på Fællesskabets vegne at meddele godkendelsen af ændringerne til protokollen om

⁽¹⁾ EFT C 219 af 30.7.1999, s. 186.

⁽²⁾ Afgørelse 77/585/EØF (EFT L 240 af 19.9.1977, s. 1)

⁽³⁾ Afgørelse 81/420/EØF (EFT L 162 af 19.6.1981, s. 4).

⁽⁴⁾ Afgørelse 83/101/EØF (EFT L 67 af 12.3.1983, s. 1).

⁽⁵⁾ Afgørelse 84/132/EØF (EFT L 68 af 10.3.1984, s. 36).

⁽⁶⁾ Rådets direktiv 76/464/EØF af 4. maj 1976 om forurening forårsaget af udledning af visse farlige stoffer i Fællesskabets vandmiljø (EFT L 129 af 18.5.1976, s. 23). Direktivet er ændret ved direktiv 91/692/EØF (EFT L 377 af 31.12.1991, s. 48). Rådets direktiv 96/61/EF af 24. september 1996 om integreret forebyggelse og bekæmpelse af forurening (EFT L 257 af 10.10.1996, s. 26).

beskyttelse af Middelhavet mod landbaseret forurening, i overensstemmelse med artikel 16 i konventionen om beskyttelse af Middelhavet mod forurening ⁽¹⁾.

Den har virkning fra dagen for vedtagelsen.

Udfærdiget i Luxembourg, den 22. oktober 1999.

Artikel 3

Denne afgørelse offentliggøres i *De Europæiske Fællesskabers Tidende*.

På Rådets vegne

S. MÖNKÄRE

Formand

⁽¹⁾ Ikrafttrædelsesdatoen for ændringerne til protokollen om beskyttelse af Middelhavet mod landbaseret forurening offentliggøres i *De Europæiske Fællesskabers Tidende* på foranledning af Generalsekretariatet for Rådet for Den Europæiske Union.

**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 first 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 10 June 1995,'*

The third 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 industrialisation and urbanisation, as well as
the seasonal increases in the coastal population due to tourism.'*

The fourth preamble paragraph of the Protocol is amended as follows:

*'Recognising the danger posed to the marine environment, living resources and human health by
pollution from land-based sources and activities and the serious problems resulting therefrom in
many coastal waters and river estuaries of the Mediterranean Sea, primarily due to the release of
untreated, insufficiently treated or inadequately disposed of domestic or industrial discharges
containing substances that are toxic, persistent and liable to bioaccumulate,'*

The following paragraph is added as the fifth preambular paragraph:

*'Applying the precautionary principle and the polluter pays principle, undertaking environmental
impact assessment and utilising the best available techniques and the best environmental practice
including clean production technologies, as provided for in Article 4 of the Convention.'*

The sixth 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,'*

The following paragraph is added as the seventh preambular paragraph:

*'Taking into consideration the Global Programme of Action for the Protection of the Marine
Environment from Land-Based Activities, adopted at Washington, D.C., on 3 November 1995,'*

C. Article 1

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

'General provision

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate, combat and eliminate to the fullest possible extent

pollution of the Mediterranean Sea area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources and activities within their territories, giving priority to the phasing out of inputs of substances that are toxic, persistent and liable to bioaccumulate.'

D. Article 2

A title is inserted, and the text of paragraphs (a) and (d) are amended as follows:

'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 10 June 1995;
- (d) The "hydrologic basin" means the entire watershed area within the territories of the Contracting Parties, draining into the Mediterranean Sea area as defined in Article 1 of the Convention.'

E. Article 3

A title is inserted and the following new paragraph is added:

'Protocol area'

(*abis* (renumbered as (b)))

'(b) The hydrologic basin of the Mediterranean Sea area;'

Paragraph (b) is renumbered as paragraph (c). Paragraph (c) is renumbered as paragraph (d) and amended as follows:

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

F. Article 4

A title is inserted and the texts of paragraphs 1(a) and (b) are amended as follows:

'Protocol application

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

The following new paragraph is added:

'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 the texts of paragraphs 1, 2 and 4 are amended as follows:

'General obligations

1. The Parties undertake to eliminate pollution deriving from land-based sources and activities, in particular to phase out inputs of the substances that are toxic, persistent and liable to bioaccumulate listed in Annex I.
2. To this end, they shall elaborate and implement, individually or jointly, as appropriate, national and regional action plans and programmes, containing measures and timetables for their implementation.'

Paragraph 3 is deleted.

4. (renumbered as 3)

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

The following new paragraphs are added:

- '4. When adopting action plans, programmes and measures, the Parties shall take into account, either individually or jointly, the best available techniques and the best environmental practice including, where appropriate, clean production technologies, taking into account the criteria set forth in Annex IV.
5. The Parties shall take preventive measures to reduce to the minimum the risk of pollution caused by accidents.'

H. Article 6

A title is inserted and the text is replaced by the following:

'Authorisation or regulation system

1. Point source discharges into the Protocol area, and releases into water or air that reach and may affect the Mediterranean area, as defined in Article 3(a), (c) and (d) of this Protocol, shall be strictly subject to authorisation or regulation by the competent authorities of the Parties, taking due account of the provisions of this Protocol and Annex II thereto, as well as the relevant decisions or recommendations of the meetings of the Contracting Parties.
2. To this end, the Parties shall provide for systems of inspection by their competent authorities to assess compliance with authorisations 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 authorisations and regulations. Such assistance shall include special training of personnel.
4. The Parties establish appropriate sanctions in case of non-compliance with the authorisations and regulations and ensure their application.'

I. Article 7

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

‘Common guidelines, standards and criteria

1. ...

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

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

J. Article 8

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

‘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 organisations, the Parties shall carry out at the earliest possible date monitoring activities and make access to the public of the findings in order:

(a) systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the sectors of activity and categories of substances listed in Annex I, and periodically to provide information in this respect;

(b) to evaluate the effectiveness of action plans, programmes and measures implemented under this Protocol to eliminate to the fullest possible extent pollution of the marine environment.’

K. Article 9

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

‘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 to this effect. To this end, the Parties shall, in particular, endeavour to:

The following new paragraph is added:

‘(c) promote access to, and transfer of, environmentally sound technology including clean production technology.’

L. Article 10

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

‘Technical assistance

1. The Parties shall, directly or with the assistance of competent regional or other international organisations, 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, utilisation 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:

‘Transboundary pollution’

N. Article 12

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

‘Settlement of disputes

1. Taking into account Article 28(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) of paragraph 2 are amended as follows:

‘Reports

1. The Parties shall submit reports every two years, unless decided otherwise by the meeting of the Contracting Parties, to the meetings of the Contracting Parties, through the Organisation, 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) action plans, programmes and measures 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-paragraphs (a), (c) and (f), of paragraph 2 are amended as follows:

'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 action plans, programmes and measures adopted;
 - (c) to formulate and adopt action plans, 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 is amended as follows:

'Adoption of action plans, programmes and measures

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

The text of paragraph 2 is replaced by the following:

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

The following new paragraphs are added:

- '3. The measures and timetables adopted in accordance with paragraph 1 of this Article shall be notified by the Secretariat to all the Parties. Such measures and timetables become binding on the one hundred and eightieth day following the day of notification for the Parties which have not notified the Secretariat of an objection within one hundred and seventy-nine days from the date of notification.
4. The Parties which have notified an objection in accordance with the preceding paragraph shall inform the meeting of the Parties of the provisions they intend to take, it being understood that these Parties may at any time give their consent to these measures or timetables.'

R. Article 16

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

'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 text of the last paragraph is amended as follows:

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

ANNEX I

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

'ANNEX I

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

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

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

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

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

A. SECTORS OF ACTIVITY

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

- (1) energy production;
- (2) fertiliser production;
- (3) production and formulation of biocides;
- (4) the pharmaceutical industry;
- (5) petroleum refining;
- (6) the paper and paper-pulp industry;
- (7) cement production;
- (8) the tanning industry;

- (9) the metal industry;
- (10) mining;
- (11) the shipbuilding and repairing industry;
- (12) harbour operations;
- (13) the textile industry;
- (14) the electronic industry;
- (15) the recycling industry;
- (16) other sectors of the organic chemical industry;
- (17) other sectors of the inorganic chemical industry;
- (18) tourism;
- (19) agriculture;
- (20) animal husbandry;
- (21) food processing;
- (22) aquaculture;
- (23) treatment and disposal of hazardous wastes;
- (24) treatment and disposal of domestic waste water;
- (25) management of municipal solid waste;
- (26) disposal of sewage sludge;
- (27) the waste management industry;
- (28) incineration of waste and management of its residues;
- (29) works which cause physical alteration of the natural state of the coastline;
- (30) transport.

B. CHARACTERISTICS OF SUBSTANCES IN THE ENVIRONMENT

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

- (1) persistence;
- (2) toxicity or other noxious properties (e.g. carcinogenicity, mutagenicity, teratogenicity);
- (3) bioaccumulation;
- (4) radioactivity;
- (5) the ratio between observed concentrations and no observed effect concentrations (NOEC);
- (6) the risk of eutrophication of anthropogenic origin;
- (7) health effects and risks;

- (8) transboundary significance;
- (9) the risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;
- (10) interference with the sustainable exploitation of living resources or with other legitimate uses of the sea;
- (11) effects on the taste and/or smell of marine products for human consumption;
- (12) effects on the smell, colour, transparency or other characteristics of seawater;
- (13) distribution pattern (i.e. quantities involved, use patterns and probability of reaching the marine environment).

C. CATEGORIES OF SUBSTANCES

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

- (1) organohalogen compounds and substances which may form such compounds in the marine environment. Priority will be given to aldrin, chlordane, DDT, dieldrin, dioxins and furans, endrin, heptachlor, hexachlorobenzene, mirex, PCBs and toxaphene;
- (2) organophosphorus compounds and substances which may form such compounds in the marine environment;
- (3) organotin compounds and substances which may form such compounds in the marine environment;
- (4) polycyclic aromatic hydrocarbons;
- (5) heavy metals and their compounds;
- (6) used lubricating oils;
- (7) radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organisations, taking into account the protection of the marine environment;
- (8) biocides and their derivatives;
- (9) pathogenic micro-organisms;
- (10) crude oils and hydrocarbons of petroleum origin;
- (11) cyanides and fluorides;
- (12) non-biodegradable detergents and other non-biodegradable surface-active substances;
- (13) compounds of nitrogen and phosphorus and other substances which may cause eutrophication;
- (14) litter (any persistent manufactured or processed solid material which is discarded, disposed of, or abandoned in the marine and coastal environment);
- (15) thermal discharges;
- (16) acid or alkaline compounds which may impair the quality of water;
- (17) non-toxic substances that have an adverse effect on the oxygen content of the marine environment;
- (18) non-toxic substances that may interfere with any legitimate use of the sea;
- (19) non-toxic substances that may have adverse effects on the physical or chemical characteristics of seawater.

ANNEX II

Annex II is deleted.

ANNEX III

Annex III is renumbered as Annex II. A title is added and the introductory paragraph is amended as follows:

'ANNEX II

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

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

The title and paragraphs 1, 2, 3, 6 and 7 of Section A are amended as follows:

'A. CHARACTERISTICS AND COMPOSITION OF THE DISCHARGES

1. Type and size of point or diffuse source (e.g. industrial process).
2. Type of discharges (e.g. origin, average composition).
3. State of waste (e.g. solid, liquid sludge, slurry).
6. Concentrations with respect to relevant constituents of substances listed in Annex I and of other substances as appropriate.
7. Physical, chemical and biochemical properties of the waste discharges.'

The title of Section B is amended and a new paragraph is added:

'B. CHARACTERISTICS OF DISCHARGE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS

7. All other characteristics as listed in Annex I, Section B.'

The title and paragraph 3 of Section C are amended as follows:

'C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING ENVIRONMENT

3. Initial dilution achieved at the point of discharge into the receiving environment.'

ANNEX IV

Annex IV is renumbered as Annex III. A title is added and paragraphs 1, 2, 3 and 5 are amended as follows:

'ANNEX III

CONDITIONS OF APPLICATION TO POLLUTION TRANSPORTED THROUGH THE ATMOSPHERE

1. This Protocol shall apply to polluting discharges into the atmosphere under the following conditions:
 - (a) the discharged substance is or could be transported to the Mediterranean Sea area under prevailing meteorological conditions;
 - (b) the input of the substance into the Mediterranean Sea area is hazardous for the environment in relation to the quantities of the same substance reaching the area by other means.

2. This Protocol shall also apply to polluting discharges into the atmosphere affecting the Mediterranean Sea area from land-based sources within the territories of the Parties and from fixed man-made offshore structures, subject to the provisions of Article 4(2) of this Protocol.
3. In the case of pollution of the Mediterranean Sea area from land-based sources through the atmosphere, the provisions of Articles 5 and 6 of this Protocol shall apply progressively to appropriate substances and sources listed in Annex I to this Protocol as will be agreed by the Parties:
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.'

ANNEX IV

A new Annex IV is added as follows:

'ANNEX IV

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

A. BEST AVAILABLE TECHNIQUES

1. The use of the best available techniques shall emphasise the use of non-waste technology, if available.
2. The term "best available techniques" means the latest stage of development (state of the art) of processes, of facilities or of methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available techniques in general or individual cases, special consideration shall be given to:
 - (a) comparable processes, facilities or methods of operation which have recently been successfully tried out;
 - (b) technological advances and changes in scientific knowledge and understanding;
 - (c) the economic feasibility of such techniques;
 - (d) time limits for installation in both new and existing plants;
 - (e) the nature and volume of the discharges and emissions concerned.
3. It therefore follows that what is "best available techniques" for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.
4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.
5. "Techniques" include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

B. BEST ENVIRONMENTAL PRACTICE

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

- (a) the provision of information and education to the public and to users about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;
 - (b) the development and application of codes of good environmental practice which cover all aspects of the activity in the product's life;
 - (c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;
 - (d) saving resources, including energy;
 - (e) making collection and disposal systems available to the public;
 - (f) avoiding the use of hazardous substances or products and the generation of hazardous waste;
 - (g) recycling, recovery and reuse;
 - (h) the application of economic instruments to activities, products or groups of products;
 - (i) establishing a system of licensing, involving a range of restrictions or a ban.
7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:
- (a) the environmental hazard of the product and its production, use and ultimate disposal;
 - (b) the substitution by less polluting activities or substances;
 - (c) the scale of use;
 - (d) the potential environmental benefit or penalty of substitute materials or activities;
 - (e) advances and changes in scientific knowledge and understanding;
 - (f) time limits for implementation;
 - (g) social and economic implications.
8. It therefore follows, that best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.
9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.'
-

RÅDETS AFGØRELSE

af 22. oktober 1999

om godkendelse af ændringerne til konventionen om beskyttelse af Middelhavet mod forurening og til protokollen om forebyggelse af forurening af Middelhavet ved dumpning fra skibe og luftfartøjer (Barcelona-konventionen)

(1999/802/EF)

RÅDET FOR DEN EUROPÆISKE UNION HAR —

under henvisning til traktaten om oprettelse af Det Europæiske Fællesskab, særlig artikel 175, stk. 1, sammenholdt med artikel 300, stk. 2, første punktum, og stk. 3, første afsnit,

under henvisning til forslag fra Kommissionen,

under henvisning til udtalelse fra Europa-Parlamentet⁽¹⁾, og

ud fra følgende betragtninger:

- 1) Fællesskabet er kontraherende part i konventionen om beskyttelse af Middelhavet mod forurening, i det følgende benævnt »Barcelona-konventionen«⁽²⁾; Fællesskabet har ligeledes indgået fire af de protokoller, der er vedtaget som led i Barcelona-konventionen, nemlig protokollen om forebyggelse af forurening af Middelhavet ved dumpning⁽³⁾, protokollen om samarbejde om bekæmpelse af forurening med olie og andre skadelige stoffer⁽³⁾, protokollen om landbaseret forurening⁽⁴⁾ og protokollen om særligt beskyttede områder⁽⁵⁾;
- 2) Kommissionen har på Fællesskabets vegne, i den af parterne i Barcelona-konventionen nedsatte arbejdsgruppe, deltaget i forhandlingerne om revisionen af Barcelona-konventionen og af protokollen om forebyggelse af forurening af Middelhavet ved dumpning fra skibe og luftfartøjer, i det følgende benævnt »protokollen«;
- 3) det påhviler Fællesskabet at engagere sig på internationalt plan på de områder, der er omfattet af den reviderede tekst til konventionen og protokollen, og som henhører under dets beføjelser;

- 4) i medfør af traktatens artikel 174 bidrager Fællesskabets politik på miljøområdet bl.a. til bevarelse, beskyttelse og forbedring af miljøkvaliteten og til fremme på internationalt plan af foranstaltninger til løsning af de regionale og globale miljøproblemer;
- 5) anvendelsesområdet for ændringerne til Barcelona-konventionen og til protokollen henhører i hvert fald delvis under Fællesskabets beføjelser; Fællesskabet har således vedtaget flere direktiver på dette område og er endvidere kontraherende part i talrige internationale konventioner på området; Fællesskabet sørger i denne forbindelse for, at indgåelsen af disse internationale aftaler ikke er i strid med eller ændrer anvendelsesområdet for den gældende fællesskabsret;
- 6) Fællesskabets tiltrædelse af den reviderede tekst til Barcelona-konventionen og til protokollen bidrager til opfyldelsen af de i traktatens artikel 174 fastsatte mål;
- 7) den reviderede tekst til Barcelona-konventionen og til protokollen blev vedtaget og åbnet for undertegnelse på de befuldmægtigedes konference i Barcelona, den 9. og 10. juni 1995;
- 8) Fællesskabet har, sammen med medlemsstaterne, undertegnet den reviderede tekst til Barcelona-konventionen og til protokollen om forebyggelse af forurening af Middelhavet ved dumpning fra skibe og luftfartøjer —

TRUFFET FØLGENDE AFGØRELSE:

Artikel 1

Ændringerne til konventionen om beskyttelse af Middelhavet mod forurening og til protokollen om forebyggelse af forure-

⁽¹⁾ EFT C 219 af 30.7.1999, s. 186.

⁽²⁾ Afgørelse 77/585/EØF (EFT L 240 af 19.9.1977, s. 1).

⁽³⁾ Afgørelse 81/420/EØF (EFT L 162 af 19.6.1981, s. 4).

⁽⁴⁾ Afgørelse 83/101/EØF (EFT L 67 af 12.3.1983, s. 1).

⁽⁵⁾ Afgørelse 84/132/EØF (EFT L 68 af 10.3.1984, s. 36).

ning af Middelhavet ved dumpning fra skibe og luftfartøjer godkendes på Fællesskabets vegne.

Artikel 3

Teksten til ændringerne er knyttet til denne afgørelse.

Denne afgørelse offentliggøres i *De Europæiske Fællesskabers Tidende*.

Artikel 2

Den træder i kraft på dagen for dens vedtagelse.

Rådets formand er bemyndiget til på Fællesskabets vegne at meddele godkendelsen af ændringerne til konventionen om beskyttelse af Middelhavet mod forurening og til protokollen om forebyggelse af forurening af Middelhavet ved dumpning fra skibe og luftfartøjer, i overensstemmelse med artikel 16 i konventionen om beskyttelse af Middelhavet mod forurening⁽¹⁾.

Udfærdiget i Luxembourg, den 22. oktober 1999.

På Rådets vegne

S. MÖNKÄRE

Formand

⁽¹⁾ Ikrafttrædelsesdatoen for ændringerne til konventionen om beskyttelse af Middelhavet mod forurening og protokollen hertil om forebyggelse af forurening af Middelhavet ved dumpning fra skibe og luftfartøjer offentliggøres i *De Europæiske Fællesskabers Tidende* på foranledning af Generalsekretariatet for Rådet for Den Europæiske Union.

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

A. Title

The title of the Convention is amended as follows:

‘CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND THE COASTAL REGION OF THE MEDITERRANEAN’.

B. Preambular paragraphs

The second preambular paragraph of the Convention is amended as follows:

‘FULLY AWARE of their responsibility to preserve and sustainably develop this common heritage for the benefit and enjoyment of present and future generations.’

The following paragraphs are added to the Preamble:

‘FULLY AWARE that the Mediterranean Action Plan, since its adoption in 1975 and through its evolution, has contributed to the process of sustainable development in the Mediterranean region and has represented a substantive and dynamic tool for the implementation of the activities related to the Convention and its Protocols by the Contracting Parties,

TAKING INTO ACCOUNT the results of the United Nations Conference on Environment and Development, held in Rio de Janeiro from 4 to 14 June 1992,

ALSO TAKING INTO ACCOUNT the Declaration of Genoa of 1985, the Charter of Nicosia of 1990, the Declaration of Cairo of 1992 on Euro-Mediterranean Cooperation on the Environment within the Mediterranean Basin, the recommendations of the conference of Casablanca of 1993, and the Declaration of Tunis of 1994 on the Sustainable Development of the Mediterranean,

BEARING IN MIND the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and signed by many Contracting Parties.’

C. Article 1

Geographical coverage

Paragraph 2 of Article 1 is amended as follows:

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

The following paragraph is added to Article 1 as new paragraph 3:

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

D. Article 2

Definitions

Paragraph (a) of Article 2 is amended as follows:

‘(a) “Pollution” means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results, or is likely to result, in such

deleterious effect as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities.'

E. Article 3

General provisions

Paragraphs 1 and 2 of Article 3 are amended as follows:

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

2. (*renumbered as 3*) Nothing in this Convention and its Protocols shall prejudice the rights and positions of any State concerning the United Nations Convention on the Law of the Sea of 1982.'

The following new paragraphs are added to Article 3:

'0. (*renumbered as 1*) The Contracting Parties, when applying this Convention and its related Protocols, shall act in conformity with international law.

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

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

F. Article 4

General obligations

Article 4 is amended as follows:

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

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

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

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

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

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

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

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

G. Article 5 and its title are amended as follows:

'Article 5

Pollution caused by dumping from ships and aircraft or incineration at sea

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

H. *Article 6*

Pollution from ships

Article 6 is amended as follows:

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

I. *Article 7***Pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil**

Article 7 is amended as follows:

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

J. *Article 8***Pollution from land-based sources**

Article 8 is amended as follows:

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

- (a) to pollution from land-based sources originating within the territories of the Parties, and reaching the sea:

directly from outfalls discharging into the sea or through coastal disposal;

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

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

K. The following new Article 9A is adopted:

'*Article 9A* (renumbered as Article 10)

Conservation of biological diversity

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

L. The following new Article 9B is adopted:

'*Article 9B* (renumbered as Article 11)

Pollution resulting from the transboundary movements of hazardous wastes and their disposal

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the environment which can be caused by transboundary movements and disposal of hazardous wastes, and to reduce to a minimum, and if possible eliminate, such transboundary movements.'

Articles 9A and 9B are renumbered as Articles 10 and 11.

M. *Article 11* (renumbered as Article 13)

Scientific and technological cooperation

Paragraph 2 is amended as follows:

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

N. The following new Article 11A is adopted:

'*Article 11A* (renumbered as Article 14)

Environmental legislation

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

O. The following new Article 11B is adopted:

'*Article 11 B* (renumbered as Article 15)

Public information and participation

1. The Contracting Parties shall ensure that their competent authorities shall give to the public appropriate access to information on the environmental state in the field of application of the Convention and the Protocols, on activities or measures adversely affecting or likely to affect it and on activities carried out or measures taken in accordance with the Convention and the Protocols.
2. The Contracting Parties shall ensure that the opportunity is given to the public to participate in decision-making processes relevant to the field of application of the Convention and the Protocols, as appropriate.
3. The provision of paragraph 1 of this Article shall not prejudice the right of Contracting Parties to refuse, in accordance with their legal systems and applicable international regulations, to provide access to such information on the ground of confidentiality, public security or investigation proceedings, stating the reasons for such a refusal.'

P. *Article 12* (renumbered as Article 16)

Liability and compensation

Article 12 is amended as follows:

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

Q. *Article 13* (renumbered as Article 17)

Institutional arrangements

Paragraph (iii) of Article 13 is amended as follows:

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

The following new paragraphs are added to Article 13:

‘(iii bis) (renumbered as (iv)):

to receive, consider and reply to enquiries and information from non-governmental organisations and the public when they relate to subjects of common interest or to activities carried out at the regional level; in this case, the Contracting Parties concerned shall be informed;

‘(iv bis) (renumbered as (vi)):

to regularly report to the Contracting Parties on the implementation of the Convention and of the Protocols;’

Paragraphs (iv), (v) and (vi) are renumbered as paragraphs (v), (vii) and (viii) respectively.

R. *Article 14* (renumbered as Article 18)

Meetings of the Contracting Parties

The following new subparagraph is added to Article 14, paragraph 2:

‘(vii) to approve the Programme Budget.’

S. The following new Article 14A is adopted:

‘*Article 14A* (renumbered as Article 19)

Bureau

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

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

T. The following new Article 14B is adopted:

‘*Article 14B* (renumbered as Article 20)

Observers

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

(a) any State which is not a Contracting Party to the Convention

(b) any international governmental organisation or any non-governmental organisation the activities of which are related to the Convention.

2. Such observers may participate in meetings without the right to vote and may present any information or report relevant to the objectives of the Convention.
3. The conditions for the admission and participation of observers shall be established in the Rules of Procedure adopted by the Contracting Parties.'

Articles 14A and 14B are renumbered as Articles 19 and 20

U. *Article 15* (renumbered as Article 21)

Adoption of additional protocols

Paragraph 3 of Article 15 is deleted.

V. *Article 18* (renumbered as Article 24)

Rules of procedure and financial rules

Paragraph 2 of Article 18 is amended as follows:

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

W. *Article 20* (renumbered as Article 26)

Reports

Article 20 is amended as follows:

1. The Contracting Parties shall transmit to the Organisation reports on:
 - (a) the legal, administrative or other measures taken by them for the implementation of this Convention, the Protocols and of the recommendations adopted by their meetings;
 - (b) the effectiveness of the measures referred to in subparagraph (a) and problems encountered in the implementation of the instruments as mentioned above.
2. The reports shall be submitted in such form and at such intervals as the Meetings of Contracting Parties may determine.'

X. *Article 21* (renumbered as Article 27)

Compliance control

Article 21 is amended as follows:

'The meetings of the Contracting Parties shall, on the basis of periodical reports referred to in Article 20 and any other report submitted by the Contracting Parties, assess the compliance with the Convention and the Protocols as well as the measures and recommendations. They shall recommend, when appropriate, the necessary steps to bring about full compliance with the Convention and the Protocols and promote the implementation of the decisions and recommendations.'

Articles 10, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28 and 29 are renumbered as Articles 12, 22, 23, 25, 28, 29, 30, 31, 32, 33, 34 and 35 respectively.

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

A. Title

The title of the Protocol is amended as follows:

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

B. Preambular paragraphs

The second preambular paragraph of the Protocol is amended as follows:

'RECOGNISING the danger posed to the marine environment by the dumping or incineration of wastes or other matter.'

The fourth preambular paragraph of the Protocol is amended as follows:

'BEARING IN MIND that Chapter 17 of Agenda 21 of UNCED calls on the Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter (London, 1972) to take the necessary measures to end dumping in the ocean and the incineration of hazardous substances.'

The following paragraph is added to the Preamble:

'TAKING INTO ACCOUNT Resolutions LC 49(16) and LC 50(16), approved by the 16th Consultative Meeting of the 1972 London Convention, which prohibit the dumping and incineration of industrial wastes at sea.'

C. Article 1

Article 1 is amended as follows:

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

D. Article 2

Article 2 is amended as follows:

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

E. Article 3

The following new subparagraphs are added to Article 3:

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

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

Paragraph 5 is renumbered as paragraph 6.

F. Article 4

Article 4 is amended as follows:

- '1. The dumping of wastes or other matter, with the exception of those listed in paragraph 2 of this Article, is prohibited.
2. The following is the list referred to in the preceding paragraph:
 - (a) dredged material;
 - (b) fish waste or organic materials resulting from the processing of fish and other marine organisms;
 - (c) vessels, until 31 December 2000;
 - (d) platforms and other man-made structures at sea, provided that material capable of creating floating debris or otherwise contributing to pollution of the marine environment has been removed to the maximum extent, without prejudice to the provisions of the Protocol concerning Pollution Resulting from Exploration and Exploitation of the Continental Shelf, the Seabed and its Subsoil.
 - (e) inert uncontaminated geological materials the chemical constituents of which are unlikely to be released into the marine environment.'

G. Article 5

Article 5 is amended as follows:

'The dumping of the wastes or other matter listed in Article 4(2) requires a prior special permit from the competent national authorities.'

H. Article 6

Article 6 is amended as follows:

- '1. The permit referred to in Article 5 shall be issued only after careful consideration of the factors set forth in the Annex to this Protocol or the criteria, guidelines and relevant procedures adopted by the meeting of the Contracting Parties pursuant to paragraph 2 below;
2. The Contracting Parties shall draw up and adopt criteria, guidelines and procedures for the dumping of wastes or other matter listed in Article 4(2) so as to prevent, abate and eliminate pollution.'

I. Article 7

Article 7 is amended as follows:

'Incineration at sea is prohibited.'

J. Article 9

Article 9 is amended as follows:

'If a Party in a critical situation of an exceptional nature considers that wastes or other matter not listed in Article 4(2) of this Protocol cannot be disposed of on land without unacceptable danger or damage, above all for the safety of human life, the Party concerned shall forthwith consult the Organisation. The Organisation, after consulting the Parties to this Protocol, shall recommend methods of storage or the most satisfactory means of destruction or disposal under the prevailing circumstances. The Party shall inform the Organisation of the steps adopted in pursuance of these recommendations. The Parties pledge themselves to assist one another in such situations.'

K. Article 10

Subparagraph 1(a) of Article 10 is amended as follows:

'(a) issue the permits provided for in Article 5;'

Subparagraph 1(b) of Article 10 is deleted.

Subparagraph 1(c) is renumbered as subparagraph 1(b).

Paragraph 2 is amended as follows:

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

L. Article 11

Paragraph 2 of Article 11 is deleted.

M. Article 14

Paragraph 3 of Article 14 is amended as follows:

'3. The adoption of amendments to the Annex to this Protocol pursuant to Article 17 of the Convention shall require a three-fourths majority vote of the Parties.'

N. Annex I

Annex I is deleted.

O. Annex II

Annex II is deleted.

P. Annex III

Annex III is changed to Annex and is amended as follows:

'ANNEX

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

...'
