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Proposal for a

COUNCIL DECISION

on establishing the position to be taken at the Eighteenth Ordinary Meeting of the Contracting Parties of the Barcelona Convention for the Protection of the Environment and the Coastal Region of the Mediterranean, with regard to the proposal for amending Annexes II and III to the Protocol concerning Special Protected Areas and Biological Biodiversity in the Mediterranean and with regard to the proposal for adoption of a Regional Action Plan on Marine Litter

EXPLANATORY MEMORANDUM

1. The EU is a Party to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the "Barcelona Convention")¹, and its Protocols. Italy, Greece, Spain, France, Slovenia, Malta, Cyprus and Croatia are also Parties to the Convention and its Protocols, together with 13 non EU Mediterranean countries.
2. The Eighteenth Ordinary Meeting of the Contracting Parties of the Barcelona Convention (MOP) will take place 3-6 December 2013 in Istanbul, Turkey.
3. The Meeting of the Parties will be asked to decide, i.a. on two acts having legal effects:
 - A proposal to adopt a Regional Action Plan on Marine Litter, under the Protocol for the Protection of the Mediterranean Sea against Pollution from Land Based Sources ("the LBS Protocol")
 - A proposal to amend the annexes II and III to the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean² (the "SPA and Biodiversity protocol")
4. On the proposal to adopt a Regional Action Plan on Marine Litter:
 - (a) The LBS Protocol provides for the adoption by the Convention of regional action plans to eliminate pollution from land-based sources and activities. Once the plans are adopted, their measures and timetables become legally binding, in the framework of the implementation of Article 15 of the Land-based Sources Protocol.
 - (b) A new proposal for a Marine Litter Regional Action Plan has been formulated by the Secretariat of the Convention and was approved within MEDPOL, the relevant technical body of the Convention, in June 2013. This proposal is in line with EU legislation on waste and water³, and the Rio+20 commitment to significantly reduce marine litter⁴. It should also be enhanced by a few additional technical adaptations at the MOP 18. Enhanced cooperation with third countries for the protection of the marine environment is necessary to

¹ Council Decision 77/585/EEC of 25 July 1977 concluding the Convention for the protection of the Mediterranean Sea against pollution and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft, OJ L 240, 19.9.1977, p. 1.

² Council Decision 1999/800/EC of 22 October 1999 on concluding the Protocol concerning specially protected areas and biological diversity in the Mediterranean, and on accepting the annexes to that Protocol (Barcelona Convention), OJ L 322, 14.12.1999, p. 1.

³ such as the Waste Framework Directive (Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, OJ L 312, 22.11.2008, p. 3–30)", the Urban Waste Water Directive (Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment OJ L 135, 30.5.1991, p. 40–52) as well as, the Directive on reporting formalities for ships arriving in and/or departing from ports of the Member States (Directive 2010/65/EU of the European Parliament and of the Council OJ L 283, 29.10.2010, p. 1–10) and the Port Reception facility Directive (Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues, OJ L 332, 28/12/2000 P. 0081 - 0090).

⁴ The Future We Want, outcome document of the Rio+20 conference, paragraph 163 " *We further commit to take action to, by 2025, based on collected scientific data, achieve significant reductions in marine debris to prevent harm to the coastal and marine environment.*".

contribute to the achievement of the objectives of the Marine Strategy Framework Directive 2008/56/EC⁵.

- (c) The Marine Litter Regional Action Plan is, as stated in its article 5 "without prejudice to stricter provisions, respecting marine litter management measures contained in other existing or future national, regional or international instruments or programmes". It invites Parties to elaborate, as appropriate, relevant measures and programmes to target marine litter.
5. On the proposal to amend the SPA Biodiversity Protocol, in order to upgrade five coral species from Annex III to Annex II and to include six other species directly into annex II to the SPA and Biodiversity Protocol
- (a) The proposal was discussed in the relevant technical body of the Convention: the focal points meeting of the SPA Biodiversity Protocol. The General Fisheries Commission for the Mediterranean (GFCM) has taken part in the meeting. In accordance with Article 17 of the Convention and Article 14(1) of the SPA and Biodiversity Protocol, an amendment to the annexes to the Protocol will become effective for all Contracting Parties to the Protocol on the expiry of a period determined by the Contracting Parties concerned when adopting the amendment, except for those Contracting Parties which have opted out by notifying the Depositary.
 - (b) The coral species concerned are included in Annex I to the Habitats Directive⁶ as natural habitat types of community interest whose conservation requires the designation of special areas of conservation⁷. Five of these coral species (*Callogorgia verticillata*, *Cladocora caespitosa*, *Ellisella paraplexauroides*, *Lophelia pertusa* and *Madrepora oculata*) are explicitly mentioned in the interpretation manual of EU habitats⁸ and other species (*Antipatella subpinnata*, *Antipathes dichotoma*, *Antipathes fragilis*, *Leiopathes glaberrima*, *Parantipathes larix*, *Cladocora debilis*) are included as components of corallogenic reef concretions.
 - (c) The support of these proposals by the EU ensures consistency between its internal and external action. The EU is committed to international cooperation for the protection of biodiversity in line with Article 191 (1) TFEU and in accordance with Article 5 of the UN Convention on Biological Diversity (CBD), the agreements made during the CBD Conference of the Parties in Nagoya, 2010, the concern expressed at the United Nations Conference on Sustainable Development in 2012 "*on the significant vulnerability of coral reefs and mangroves to impacts, including from climate change, ocean acidification, overfishing, destructive fishing practices and pollution*" the commitment "*to support international cooperation with a view to conserving coral reef and mangrove ecosystems and realizing their social, economic and environmental benefits as well as facilitating technical collaboration and*

⁵ OJ L 162, 21.6.2008, p. 11.

⁶ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992, p. 7.

⁷ Special areas of conservation as defined in article 1 (l) of the Habitat Directive means a site of Community importance designated by the Member States through a statutory, administrative and/or contractual act where the necessary conservation measures are applied for the maintenance or restoration, at a favourable conservation status, of the natural habitats and/or the populations of the species for which the site is designated.

⁸ http://ec.europa.eu/environment/nature/legislation/habitatsdirective/docs/Int_Manual_EU28.pdf

voluntary information-sharing" as well as the Aichi Biodiversity Target No 10 according to which "by 2015, the multiple anthropogenic pressures on coral reefs, and other vulnerable ecosystems impacted by climate change or ocean acidification are minimized, so as to maintain their integrity and functioning".

6. The proposal for amendment of the SPA and Biodiversity Protocol and the proposal for a Marine Litter Action Plan under Article 15 of the LBS Protocol will not require any change to Union Law.
7. In view of the above, the European Union should support the proposal to adopt the Regional Action Plan on Marine Litter and the proposal to amend the annexes II and III to the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean.

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on establishing the position to be taken at the Eighteenth Ordinary Meeting of the Contracting Parties of the Barcelona Convention for the Protection of the Environment and the Coastal Region of the Mediterranean, with regard to the proposal for amending Annexes II and III to the Protocol concerning Special Protected Areas and Biological Biodiversity in the Mediterranean and with regard to the proposal for adoption of a Regional Action Plan on Marine Litter

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192 (1), in conjunction with Article 218 (9), thereof,

Having regard to the proposal from the European Commission⁹,

Whereas:

- (1) The EU is a Contracting Party to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean¹⁰ (hereinafter referred to as 'the Barcelona Convention').
- (2) The EU is a Party to the Protocol for the Protection of the Mediterranean Sea against Pollution for Land Based Sources (hereinafter referred to as 'the LBS Protocol') and to the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean¹¹ (the 'SPA and Biodiversity Protocol').
- (3) The Eighteenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols, which will take place in Istanbul (Turkey) from 3 to 6 December 2013 will examine the adoption of:
 - (a) A proposal to adopt a Regional Action Plan on Marine Litter, under the Protocol for the Protection of the Mediterranean Sea against Pollution for Land Based Sources ('the LBS Protocol').
 - (b) A proposal to amend the annexes II and III to the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean (the 'SPA and Biodiversity protocol').
- (4) As regards the proposal to amend the annexes II and III to the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean:

⁹ OJ C [...], [...], p. [...].

¹⁰ Council Decision 77/585/EEC of 25 July 1977 concluding the Convention for the protection of the Mediterranean Sea against pollution and the Protocol for the prevention of the pollution of the Mediterranean Sea by dumping from ships and aircraft, OJ L 240, 19.9.1977, p. 1.

¹¹ Council Decision 1999/800/EC of 22 October 1999 on concluding the Protocol concerning specially protected areas and biological diversity in the Mediterranean, and on accepting the annexes to that Protocol (Barcelona Convention), OJ L 322, 14.12.1999, p. 1.

- (a) The Meeting of the Contracting Parties is the decision-making body of the Convention, and the powers conferred upon it include the capacity to amend as required the annexes to the Convention and to its protocols. In accordance with Article 17 of the Barcelona Convention and Article 14(1) of the Protocol, an amendment to the Annexes of the Protocol shall become effective for all Contracting Parties to the Protocol on expiry of a period determined by the respective Contracting Parties when adopting the amendment, except for those that have notified in writing the Depositary that they are unable to approve the amendment.
 - (b) According to the Memorandum of Understanding signed between the Mediterranean Action Plan (UNEP/MAP) and the General Fisheries Commission for the Mediterranean (GFCM), possible amendments to the annexes of the Protocol should be consulted between the Parties ensuring timely and adequate flow of scientific information.
 - (c) The EU should support this proposal because it is scientifically sound, consistent with Union legislation in particular under the Habitat Directive and with the Union's commitment to international cooperation for the protection of biodiversity, and in accordance with Article 5 of the UN Convention on Biological Diversity¹², the target agreed at the Convention on Biological Diversity in 2010 to significantly reduce the current rate of biodiversity loss by 2020 as well as the Aichi Biodiversity Target No 10 according to which "by 2015, the multiple anthropogenic pressures on coral reefs, and other vulnerable ecosystems impacted by climate change or ocean acidification are minimized, so as to maintain their integrity and functioning".
- (5) As regards the proposal to adopt a Regional Action Plan on Marine Litter, under the Protocol for the Protection of the Mediterranean Sea against Pollution from Land Based Sources ("the LBS Protocol"):
- (a) The LBS Protocol provides for the adoption by the Meeting of the Parties of Regional action plans and programmes, including measures and timetables, to eliminate pollution deriving from land-based sources and activities. By virtue of Article 15 of the Protocol, when plans are adopted, their measures and timetables will become binding for the Parties on the one hundred and eightieth day following the day of notification by the Secretariat to all the Parties.
 - (b) Regional Action Plan on Marine Litter has been formulated by the body designated by the Parties as responsible to prepare the Meeting of the Parties, and have been approved by the relevant technical body of the Convention. The Regional Action Plan should in addition be enhanced by a few technical modifications, in order to bring it further in line with current practice in the EU.
 - (c) The Regional Action Plan concerns a field covered by Union law in particular in the field of waste and water as well as transport¹³ and is coherent with the

¹² Council Decision 93/626/EEC of 25 October 1993 concerning the conclusion of the Convention on Biological Diversity, OJ L 309, 13.12.1993, p. 1.

¹³ such as the Waste Framework Directive (Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, OJ L 312, 22.11.2008, p. 3–30)", the Urban Waste Water Directive (Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment OJ L 135, 30.5.1991, p. 40–52) as well as, in addition, the Directive on reporting formalities for ships arriving in and/or departing from ports of the Member States (Directive

commitment made at Rio+20 to significantly reduce marine litter. Enhanced cooperation with third countries for the protection of the marine environment is necessary to contribute to the achievement of the objectives of the Marine Strategy Framework Directive 2008/56/EC.

- (6) The two proposals to be examined by the Eighteenth Ordinary Meeting of the Contracting Parties would not require any change in Union law.
- (7) The EU should support the proposals.

HAS ADOPTED THIS DECISION:

Article 1

At the Eighteenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols, the position of the European Union shall be to support the addition of the following species to Annex II to the Protocol and their respective deletion from Annex III:

- *Antipatella subpinnata* (Ellis & Solander, 1786);
- *Antipathes dichotoma* (Pallas, 1766);
- *Antipathes fragilis* (Gravier, 1918);
- *Leiopathes glaberrima* (Esper, 1792);
- *Parantipathes larix* (Esper, 1790);

And the inclusion of the following species into Annex II:

- *Callogorgia verticillata* (Pallas, 1766);
- *Cladocora caespitosa* (Linnaeus, 1767);
- *Cladocora debilis* (Edwards & Haime, 1849);
- *Ellisella paraplexauroides* (Stiasny, 1936);
- *Lophelia pertusa* (Linnaeus, 1758);
- *Madrepora oculata* (Linnaeus, 1758).

2010/65/EU of the European Parliament and of the Council OJ L 283, 29.10.2010, p. 1–10) and the Port Reception facility Directive (Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues, OJ L 332, 28/12/2000 P. 0081 - 0090).

Article 2

At this meeting, the position of the European Union shall also be to support, in the framework of the implementation of Article 15 of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities, the adoption of the Regional Action Plan on Marine Litter.

The representatives of the Union will endeavor to ensure that prior to adoption the text is slightly amended to:

- reflect the need to establish guidelines and discuss good practices on fishing for litter,
- advocate for the compatibility of the Mediterranean Regional Data Bank on marine litter with other regional or overarching databases,
- include microplastics in the definition of marine litter, and
- reinforce the references to the involvement of stakeholders.

Minor changes to this position may be agreed to by the representatives of the Union in the Eighteenth Ordinary Meeting of the Contracting Parties without further decision of the Council.

Done at Brussels,

For the Council
The President
[...]