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MEDITERRANEAN ACTION PLAN

Conference of Plenipotentiaries on the Protocol
on the Prevention of Pollution of the
Mediterranean Sea by Transboundary
Movements of Hazardous Wastes and their Disposal

Izmir, Turkey, 30 September - 1 October 1996

الوثيقة الختامية والبروتوكول

FINAL ACT AND PROTOCOL

ACTE FINAL ET PROTOCOLE

ACTA FINAL Y PROTOCOLO

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الوثيقة الختامية لمؤتمر المفوضين بشأن بروتوكول
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FINAL ACT OF THE CONFERENCE OF PLENIPOTENTIARIES ON THE
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**FINAL ACT OF THE CONFERENCE OF PLENIPOTENTIARIES ON THE
PROTOCOL ON THE PREVENTION OF POLLUTION OF
THE MEDITERRANEAN SEA BY TRANSBOUNDARY
MOVEMENTS OF HAZARDOUS WASTES
AND THEIR DISPOSAL**

**FINAL ACT OF THE CONFERENCE OF PLENIPOTENTIARIES ON THE PROTOCOL
ON THE PREVENTION OF POLLUTION OF THE MEDITERRANEAN SEA BY
TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES
AND THEIR DISPOSAL**

1. The Conference of Plenipotentiaries on the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal, was convened by the Executive Director of the United Nations Environment Programme in pursuance of a recommendation adopted by the Ninth Ordinary Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its Protocols (Barcelona, 5-8 June 1995). The recommendation called for the convening of a third meeting of government-designated legal and technical experts to prepare the final text of the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal, to be followed by a Conference of Plenipotentiaries (UNEP(OCA)/MED IG.5/16).
2. At the kind invitation of the Government of Turkey, the Conference was convened in Izmir (Turkey) on 30 September and 1 October 1996.
3. The following Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution were invited to participate in the Conference: Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, European Community, France, Greece, Israel, Italy, Lebanon, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Slovenia, Spain, Syrian Arab Republic, Tunisia and Turkey.
4. The following Contracting Parties accepted the invitation and participated in the Conference: Algeria, Bosnia and Herzegovina, Croatia, Egypt, European Community, France, Greece, Israel, Italy, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Slovenia, Spain, Tunisia and Turkey.
5. Representatives of the following United Nations bodies, specialized agencies and intergovernmental and non-governmental organizations also attended the Conference as observers:

United Nations:

- United Nations Environment Programme (UNEP)

Specialized agencies:

- International Atomic Energy Agency (IAEA)

Non-governmental organizations:

- Ecomediterrania
- Greenpeace International
- International Juridical Organization for Environment and Development (IJO)
- International Marine Centre (IMC)
- Turkish Marine Environment Protection Association (TURMEPA)
- World Wide Fund for Nature International (WWF)

6. The Conference had been preceded by three meetings of legal and technical experts held in Cervia (Italy) from 23-25 April 1993, Rome (Italy) from 21-24 September 1994, and Izmir (Turkey) from 26-28 September 1996 respectively, which prepared the final text of the Protocol for adoption by the Conference of Plenipotentiaries.
7. At the opening ceremony, the Conference heard a welcoming address by H.E. Mr Ziyattin Tokar, Minister for the Environment of Turkey.
8. The Conference also heard a statement by Mr Lucien Chabason, Coordinator of the Coordinating Unit for the Mediterranean Action Plan.
9. The Conference adopted the following agenda:
 1. Opening of the Conference
 2. Rules of procedure
 3. Election of officers
 4. Adoption of the agenda and organization of work
 5. Examination and adoption of the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal
 6. Report of the Credentials Committee
 7. Adoption and signature of the Final Act of the Conference
 8. Signature of the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal
 9. Closure of the Conference.
10. The Conference applied the Rules of Procedure for the meetings and conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its Protocols (UNEP(OCA)/MED IG.43/6, Annex XI).

11. In conformity with Rule 20 of the Rules of Procedure, the Conference elected the following Bureau:

<i>President:</i>	H.E. Mr Ziyattin Tokar	(Turkey)
<i>Vice-President:</i>	H.E. Mr Jean Pastorelli	(Monaco)
<i>Vice-President:</i>	H.E. Mr Ahmed Noui	(Algeria)
<i>Vice-President:</i>	Mr Nenad Mikulic	(Croatia)
<i>Vice-President:</i>	Ms Amparo Rambla Gil	(Spain)
<i>Rapporteur:</i>	Mr Abdulfattah Mohamed Boargob	(Libyan Arab Jamahiriya)

12. Mr Lucien Chabason, Coordinator of the Coordinating Unit for the Mediterranean Action Plan, served as the Secretary-General of the Conference, and Mr Ibrahim Dharat, Senior Programme Officer (MAP), served as Executive Secretary of the Conference.
13. The main document which served as the basis for the deliberations of the Conference was:
- UNEP(OCA)/MED IG.9/3 Draft Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal.
14. In conformity with the Rules of Procedure, the Conference decided that the Bureau, comprising the President, the four Vice-Presidents and the Rapporteur, should act as the Credentials Committee.
15. The Credentials Committee met on 30 September 1996 to examine the credentials of representatives attending the Conference and found that all representatives were appropriately accredited.
16. The Conference approved the report of the Credentials Committee on 30 September 1996.
17. On the basis of its deliberations, on 1 October 1996, the Conference adopted the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal and its annexes, in accordance with Article 15.1 of the Convention for the Protection of the Mediterranean Sea against Pollution (the Barcelona Convention).
18. The Conference requested the first meeting of the Parties to the Protocol to consider the establishment of a regional centre for training and technical assistance in the field of hazardous wastes.
19. The Conference noted that the Protocol had been drafted in the light of the present legal situation of the Mediterranean Sea. In the event of developments affecting this situation, the Protocol might have to be revised.
20. The Protocol, which is appended to this Final Act, will be open for signature in Izmir on 1 October 1996, and will remain open for signature in Madrid until 1 October 1997, by any

Contracting Party to the Barcelona Convention.

21. The Conference also adopted the following resolutions, which are appended to this Final Act:

Resolution I Signature, Ratification, Acceptance and Approval of and Accession to the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal.

Resolution II Interim Arrangements.

Resolution III Tribute to the Government of Turkey.

22. At the time of adoption of this Final Act, several delegations made the declarations which are appended to this document.

IN WITNESS WHEREOF the representatives of the following Contracting Parties have signed this Final Act:

القرار الأول

التوقيع على بروتوكول بشأن حماية البحر المتوسط من التلوث
الناجم عن نقل النفايات الخطرة والتخلص منها عبر الحدود،
والتصديق عليه، وقبوله، والموافقة عليه والانضمام إليه

RESOLUTION I

**Signature, ratification, acceptance and approval of and accession to the
Protocol on the Prevention of Pollution of the Mediterranean Sea
by Transboundary Movements of Hazardous Wastes
and their Disposal**

RESOLUTION I

**Signature, ratification, acceptation et approbation du Protocole relatif
à la prévention de la pollution de la mer Méditerranée par les
mouvements transfrontières de déchets dangereux
et leur élimination et adhésion audit Protocole**

RESOLUCION I

**Firma, ratificación, aceptación y aprobación del Protocolo sobre la
Prevención de la Contaminación del Mar Mediterráneo causada
por los Movimientos Transfronterizos de Desechos
Peligrosos y su Eliminación, y adhesión a éste**

RESOLUTION I

Signature, Ratification, Acceptance and Approval of and Accession to the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal

The Conference,

Having adopted on this first day of October 1996 the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal,

Desirous of ensuring that the Protocol shall begin to produce beneficial effects at the earliest possible moment,

Having regard to Article 17, paragraphs 3-6, of the Protocol, which govern the signature, ratification, acceptance or approval of the Protocol and accession thereto and its entry into force,

Having regard furthermore to Article 29 of the Convention for the Protection of the Mediterranean Sea against Pollution, in which the Government of Spain has been designated Depositary of the Convention and of any Protocol thereto,

1. *Invites* the Government of Spain to open the Protocol for signature at Madrid from 2 October 1996 to 1 October 1997, by all those entitled to sign the said instruments by virtue of Article 17, paragraph 3, thereto;
2. *Urges* all Parties that are entitled to sign the Protocol to do so as soon as practicable and to complete at the earliest opportunity the constitutional procedures needed for the ratification, acceptance or approval of the Protocol under their respective statutory or legislative provisions and to transmit the instruments of ratification, acceptance or approval to the Depositary;
3. *Calls* upon all Parties entitled to accede to the Protocol to do so as soon as possible after the period specified in Article 17, paragraph 5, of the Protocol.

القرار الثاني

ترتيبات مؤقتة

RESOLUTION II

Interim arrangements

RESOLUTION II

Dispositions int rimaires

RESOLUCION II

Disposiciones provisionales

RESOLUTION II

Interim arrangements

The Conference,

Having adopted the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal,

Having regard to Article 13 of the Convention for the Protection of the Mediterranean Sea against Pollution (hereinafter referred to as "the Barcelona Convention") in which the United Nations Environment Programme (UNEP) has been designated as responsible for carrying out the secretariat functions of the Convention and of any Protocol thereto,

Desirous of facilitating the earliest practicable implementation of the Protocol,

1. *Invites the Contracting Parties and the Executive Director of UNEP to ensure that the Tenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols considers the measures and actions necessary for the successful implementation of the Protocol;*
2. *Calls on the Executive Director of UNEP to initiate consultations with the Contracting Parties on the workplan and timetable for meetings of experts to elaborate the technical aspects of the provisions of the Protocol;*
3. *Invites the Executive Director of UNEP to establish cooperation with relevant regional and international organizations in activities related to the implementation of this Protocol.*

القرار الثالث

توجيه الشكر الى حكومة تركيا

RESOLUTION III

Tribute to the Government of Turkey

RESOLUTION III

Remerciements au Gouvernement turc

RESOLUCION III

Agradecimiento al Gobierno de Turquía

RESOLUTION III

Tribute to the Government of Turkey

The Conference,

Having met in Izmir on 30 September and 1 October 1996 at the gracious invitation of the Government of Turkey,

Convinced that the important contribution made by the Government of Turkey greatly added to the efficient conduct of its proceedings,

Deeply appreciative of the courtesy and generous hospitality extended by the Government of Turkey and the Authorities of Izmir to the members of the delegations, observers and Secretariat attending the Conference,

Expresses its sincere gratitude to the Government of Turkey for the cordial welcome accorded to the Conference and to those associated with its work and for its contribution to the successful conclusion of the Conference.

إعلانات قدمت وقت اعتماد البروتوكول بشأن منع تلوث
البحر المتوسط الناجم عن نقل النفايات الخطرة
والتخلص منها عبر الحدود

DECLARATIONS MADE AT THE TIME OF ADOPTION OF THE PROTOCOL
ON THE PREVENTION OF POLLUTION OF THE MEDITERRANEAN SEA
BY TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES
AND THEIR DISPOSAL

DECLARATIONS FAITES LORS DE L'ADOPTION DU PROTOCOLE RELATIF
A LA PREVENTION DE LA POLLUTION DE LA MER MEDITERRANEE
PAR LES MOUVEMENTS TRANSFRONTIERES DE DECHETS
DANGEREUX ET LEUR ELIMINATION

DECLARACIONES EFECTUADAS EN EL MOMENTO DE PROCEDER A LA
APROBACION DEL PROTOCOLO SOBRE LA PREVENCION DE LA
CONTAMINACION DEL MAR MEDITERRANEO CAUSADA
POR LOS MOVIMIENTOS TRANSFRONTERIZOS DE
DESECHOS PELIGROSOS Y SU ELIMINACION

Declaration by the European Community

The representative of the European Community declares hereby that it is the understanding of the European Community that the provisions of this Protocol do not affect in any way the exercise of navigational rights and freedoms as provided for in international law and, in particular, the law of the sea.

Accordingly, nothing in this Protocol requires consent of any State for the passage of hazardous wastes on a vessel under the flag of a Party exercising rights of passage through the territorial sea in accordance with international law.

It is also the understanding of the European Community that nothing in this Protocol requires notice to or consent of any State for the passage of a vessel under the flag of a Party exercising freedom of navigation in an exclusive economic zone in accordance with international law.

The representative of the European Community states that the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal should not cover banned hazardous substances. He therefore enters a reservation regarding the inclusion of these substances in the Protocol.

The representative of the European Community states that the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal should not apply to wastes containing or contaminated by radionuclides. He therefore enters a reservation regarding the inclusion of these radioactive wastes in the Protocol.

The representative of the European Community states that the European Community is not in a position to approve and sign the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal, as its internal procedures have not yet been completed. The European Community hopes to be able to approve and sign the Protocol in the near future.

Declaration by France

France enters a reservation on the question of transboundary movements of radioactive wastes, which should be dealt with by the competent international organizations at the global level, namely, IMO and IAEA, which have developed and are developing relevant rules in this area.

France enters a reservation on the provisions in the Protocol affecting freedom of navigation in the exclusive economic zone, as defined in the United Nations Convention on the Law of the Sea of 1982, and freedom of navigation in fishing zones beyond the territorial sea.

France considers that the provisions of the Protocol do not affect the right of innocent passage through the territorial sea as defined in the United Nations Convention on the Law of the Sea of 1982.

France considers that the scope of this Protocol should correspond to hazardous wastes as referred to in the Barcelona Convention and in accordance with the widely accepted definition in the Basel Convention.

Declaration by Israel

Israel makes a reservation on Article 1 (u) and (v) and Article 5.4, and states that, for the purposes of this Protocol, Israel is a developed country and shall have the same rights and obligations as Member States of the OECD and the EU.

With regard to Article 3 and Annex I, the representative of Israel supports the reservations made by the representatives of the European Community and of France regarding the inclusion of the "Y0" category in Annex I. Its support is based on the arguments put forward by those representatives and by the representative of the International Atomic Energy Agency (IAEA).

Declaration by Slovenia

With regard to Article 5.4, Slovenia reserves its right to import hazardous wastes not intended for final disposal but to cover its own needs for secondary raw materials, in accordance with the provisions of the Basel Convention.

بروتوكول بشأن حماية البحر المتوسط من
التلوث الناجم عن نقل النفايات الخطرة
والتخلص منها عبر الحدود

**Protocol on the Prevention of Pollution of the Mediterranean Sea
by Transboundary Movements of Hazardous Wastes
and their Disposal**

**Protocole relatif à la prévention de la pollution de la mer Méditerranée
par les mouvements transfrontières de déchets dangereux
et leur élimination**

**Protocolo sobre la Prevención de la Contaminación del Mar Mediterráneo
causada por los Movimientos Transfronterizos de Desechos
Peligrosos y su Eliminación**

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

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995,

Conscious of the danger threatening the environment of the Mediterranean Sea caused by the transboundary movements and disposal of hazardous wastes,

Convinced that the most effective way of protecting human health and the marine environment from the dangers posed by hazardous wastes is the reduction and elimination of their generation, for example through substitution and other clean production methods,

Recognizing the increased will for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially in developing countries,

Taking into account the 1992 Rio Declaration on Environment and Development and especially Principle 14 which declares that States "should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities or substances that cause severe environmental degradation or are found to be harmful to human health",

Aware of the growing international concern regarding the need to ensure that pollution originating in one State is not transferred to other States and, consistent with this objective, of the need to reduce transboundary movements of hazardous wastes to a minimum as far as possible, with the ultimate aim of phasing out such movements,

Recognizing also that any State has the sovereign right to ban the entry, transit or disposal of hazardous wastes in its territory,

Bearing in mind the relevant provisions of the United Nations Convention on the Law of the Sea of 1982,

Taking into account also the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted on 22 March 1989, in particular Article 11, and decisions I/22, II/12 and III/1 adopted by the First, Second and Third Meetings respectively of the Conference of the Parties to the Basel Convention,

Taking into account further that many States, among them Contracting Parties to the Barcelona Convention, have taken legal measures and entered into international agreements consistent with the Basel Convention to ban transboundary movements of hazardous wastes, for example, the IVth ACP/EEC Convention signed in Lomé on 15 December 1989 by the European Economic Community and the African, Caribbean and Pacific Group of States, and the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, adopted under the auspices of the Organization of African Unity on 30 January 1991,

Recognizing further the differences in levels of economic and legislative development among the various Mediterranean coastal States, and realizing that hazardous waste should not be allowed to be transported in order to take advantage of such economic or legislative disparities to the detriment of the environment and of the social well-being of developing countries,

Bearing in mind also the fact that the most effective way of dealing with the threats represented by wastes for human health and the environment consists in decreasing or even prohibiting the transfer of activities which generate hazardous wastes,

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Protocol:

- (a) "Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976 and amended on 10 June 1995;
- (b) A "Party" means a Contracting Party to this Protocol in accordance with Article 29, paragraph 1, of the Convention;
- (c) "Wastes" means substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;
- (d) "Hazardous wastes" means wastes or categories of substances as specified in Article 3 of this Protocol;
- (e) "Disposal" means any operation specified in Annex III to this Protocol;
- (f) "Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;
- (g) "Approved site or facility" means a site or facility for the disposal of hazardous wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;
- (h) "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous waste, and any information related to it, and for responding to such a notification;

- (i) "Clean production methods" means those which reduce or avoid the generation of hazardous wastes in conformity with Articles 5 and 8 of this Protocol;
- (j) "Environmentally sound management" of hazardous wastes means taking all practicable steps to ensure that hazardous wastes are collected, transported and disposed of (including after-care of disposal sites) in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;
- (k) "Area under the national jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibilities in accordance with international law in regard to the protection of human health or the environment;
- (l) "State of export" means a Party from which a transboundary movement of hazardous wastes is planned to be initiated or is initiated;
- (m) "State of import" means a Party to which a transboundary movement of hazardous wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;
- (n) "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes is planned or takes place;
- (o) "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes to be exported;
- (p) "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes to be imported;
- (q) "Generator" means any person whose activity produces hazardous wastes or, if that person is not known, the person who is in possession and/or control of those wastes;
- (r) "Disposer" means any person to whom hazardous wastes are shipped and who carries out the disposal of such wastes;
- (s) "Illegal traffic" means any transboundary movement of hazardous wastes as specified in Article 9;
- (t) "Person" means any natural or legal person;
- (u) "Developing countries" means those countries which are not Member States of the Organization for Economic Co-operation and Development (OECD);*

* For the purpose of this Protocol, Monaco shall have the same rights and obligations as Member States of the OECD.

- (v) "Developed countries" means those countries which are Member States of the Organization for Economic Co-operation and Development (OECD);*
- (w) "Organization" means the body referred to in Article 2 (b) of the Convention.

Article 2

PROTOCOL AREA

The Protocol area as referred to in this Protocol shall mean the area as defined in Article 1 of the Convention.

Article 3

SCOPE OF THE PROTOCOL

1. This Protocol shall apply to:
 - (a) Wastes that belong to any category in Annex I to this Protocol;
 - (b) Wastes that are not covered under paragraph (a) above but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the State of export, import or transit;
 - (c) Wastes that possess any of the characteristics contained in Annex II to this Protocol;
 - (d) Hazardous substances that have been banned or are expired, or whose registration has been cancelled or refused through government regulatory action in the country of manufacture or export for human health or environmental reasons, or have been voluntarily withdrawn or omitted from the government registration required for use in the country of manufacture or export.
2. Wastes which derive from the normal operations of ships, the discharge of which is covered by another international instrument, are excluded from the scope of this Protocol.
3. The generator, the exporter or the importer, depending on the circumstances, shall bear the responsibility for checking with the competent authorities of the State of export, import or transit that a particular waste, prior to its transboundary movement, is not subject to this Protocol.

* For the purposes of this Protocol, Monaco shall have the same rights and obligations as Member States of the OECD.

Article 4

NATIONAL DEFINITIONS OF HAZARDOUS WASTES

1. Each Party to the Convention shall, within six months of becoming a Party, inform the Organization of the wastes, other than those listed in Annex I to this Protocol, considered or defined as hazardous wastes under its national legislation, and of any requirements concerning transboundary movement procedures applicable to such wastes.
2. Each Party shall subsequently inform the Organization of any significant changes in information it has provided pursuant to paragraph 1 of this Article.
3. The Organization shall inform all Parties of the information it has received pursuant to paragraphs 1 and 2 of this Article.
4. The Parties shall be responsible for making the information transmitted to them by the Organization under paragraph 3 of this Article available to their exporters.

Article 5

GENERAL OBLIGATIONS

1. The Parties shall take all appropriate measures to prevent, abate and eliminate pollution of the Protocol area which can be caused by transboundary movements and disposal of hazardous wastes.
2. The Parties shall take all appropriate measures to reduce to a minimum, and where possible eliminate, the generation of hazardous wastes.
3. The Parties shall also take all appropriate measures to reduce to a minimum the transboundary movement of hazardous wastes, and if possible to eliminate such movement in the Mediterranean. To achieve this goal, Parties have the right individually or collectively to ban the import of hazardous wastes. Other Parties shall respect this sovereign decision and not permit the export of hazardous wastes to States which have prohibited their import.
4. Subject to the specific provisions relating to the transboundary movement of hazardous wastes through the territorial sea of a State of transit, referred to in Article 6.4 of this Protocol, all Parties shall take appropriate legal, administrative and other measures within the area under their jurisdiction to prohibit the export and transit of hazardous wastes to developing countries, and Parties which are not Member States of the European Community* shall prohibit all imports and transit of hazardous wastes.

* For the purposes of this Protocol, Monaco shall have the same rights and obligations as Member States of the European Community.

5. The Parties shall cooperate with other United Nations agencies, relevant international and regional organizations in order to prevent illegal traffic, and shall take appropriate measures to achieve this goal, including criminal punishment measures in accordance with their national legislation.

Article 6

TRANSBOUNDARY MOVEMENT AND NOTIFICATION PROCEDURES

In exceptional cases, unless otherwise prohibited, when hazardous wastes cannot be disposed of in an environmentally sound manner in the country in which they originated, transboundary movements of such wastes can be allowed if:

1. The special situation of the Mediterranean developing countries which do not have the technical capabilities nor the disposal facilities for the environmentally sound management of hazardous wastes is taken into consideration.
2. The competent authority of the State of import ensures that the hazardous waste is disposed of in an approved site or facility with the technical capacity for its environmentally sound disposal.
3. The transboundary movement of hazardous wastes only takes place with the prior written notification of the State of export as specified in Annex IV to this Protocol, and the prior written consent of the State(s) of import and the State(s) of transit. This paragraph does not apply to conditions of passage through the territorial sea, which are governed by paragraph 4 of this Article.
4. The transboundary movement of hazardous wastes through the territorial sea of a State of transit only takes place with the prior notification by the State of export to the State of transit, as specified in Annex IV to this Protocol. After reception of the notification, the State of transit brings to the attention of the State of export all the obligations relating to passage through its territorial sea in application of international law and the relevant provisions of its domestic legislation adopted in compliance with international law to protect the marine environment. Where necessary, the State of transit may take appropriate measures in accordance with international law. This procedure must be complied with within the delays provided for by the Basel Convention.
5. Every State involved in a transboundary movement ensures that such movement is consistent with international safety standards and financial guarantees, in particular the procedures and standards set out in the Basel Convention.

Article 7

DUTY TO REIMPORT

The State of export shall reimport the hazardous wastes if the transboundary movement cannot be completed by reason of impossibility of performance of the contracts relating to the

movement and disposal of the wastes. To this end, any State of transit shall not oppose, hinder or prevent the return of those wastes to the State of export after being properly informed by the State of export.

Article 8

REGIONAL COOPERATION

1. In conformity with Article 13 of the Convention, the Parties shall cooperate as far as possible in scientific and technological fields related to pollution from hazardous wastes, particularly in the implementation and development of new methods for reducing and eliminating hazardous waste generated through clean production methods.
2. To this end, the Parties shall submit annual reports to the Organization regarding the hazardous wastes they generate and transfer within the Protocol area in order to enable the Organization to produce a hazardous waste audit.
3. The Parties shall cooperate in taking appropriate measures to implement the precautionary approach based on prevention of pollution problems arising from hazardous wastes and their transboundary movement and disposal. To this end, the Parties shall ensure that clean production methods are applied to production processes.

Article 9

ILLEGAL TRAFFIC

1. For the purpose of this Protocol, any transboundary movement of hazardous wastes in contravention of this Protocol or of other rules of international law shall be deemed to be illegal traffic.
2. Each Party shall introduce appropriate national legislation to prevent and punish illegal traffic, including criminal penalties on all persons involved in such illegal activities.
3. In the case of illegal traffic due to the conduct of the generator or the exporter, the State of export shall ensure that the wastes in question are taken back by the exporter or the generator or, if necessary, by itself, into the State of export within 30 days from the time the illegal traffic has come to its attention and that appropriate legal action is taken against the contravenor(s).
4. In the case of illegal traffic due to the conduct of the importer or disposer, the State of import shall ensure that the wastes in question are eliminated according to environmentally sound methods by the importer within 30 days from the time the illegal traffic has come to the attention of the State of import; if not possible, the State of export shall ensure that the wastes are taken back by the exporter, the generator or, if necessary, by itself into the State of export. The competent authorities of the importing or exporting States shall ensure that legal proceedings according to this Protocol are taken against the contravenor(s).

5. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through cooperation that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

6. The Parties shall forward, as soon as possible, all information relating to illegal traffic to the Organization, which shall distribute the information to all Contracting Parties.

7. The Parties shall cooperate to ensure that no illegal traffic takes place. Upon request, the Organization shall assist Parties in their identification of cases of illegal traffic and shall circulate immediately to the Parties concerned any information it has received regarding illegal traffic.

8. The Organization shall undertake the necessary coordination with the Secretariat of the Basel Convention in relation to the effective prevention and monitoring of illegal traffic in hazardous wastes. Such coordination shall be mainly based on:

- (a) Exchange of information on cases or alleged cases of illegal traffic in the Mediterranean and coordination of action to remedy such cases;
- (b) Providing assistance in the field of capacity-building, including development of national legislation and of appropriate infrastructure in the Mediterranean States with a view to the prevention and penalization of illegal traffic in hazardous wastes;
- (c) The establishment of a mechanism to prevent and monitor illegal traffic in hazardous wastes in the Mediterranean.

Article 10

ASSISTANCE TO DEVELOPING COUNTRIES

The Parties shall, directly or with the assistance of competent or other international organizations or bilaterally, cooperate with a view to formulating and implementing programmes of financial and technical assistance to developing countries for the implementation of this Protocol.

Article 11

TRANSMISSION OF INFORMATION

The Parties shall inform one another through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and distribution of such information shall be determined at the meetings of the Parties.

Article 12

INFORMATION TO AND PARTICIPATION OF THE PUBLIC

1. In the exceptional cases in which transboundary movement of hazardous wastes is permitted under Article 6 of this Protocol, the Parties shall ensure that adequate information is made available to the public, transmitted through such channels as the Parties deem appropriate.
2. The State of export and the State of import shall, in accordance with the provisions of this Protocol and whenever possible and appropriate, give the public an opportunity to participate in relevant procedures with the aim of making known its views and concerns.

Article 13

VERIFICATION

1. Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Protocol informs the Organization thereof, and, in such an event, simultaneously and immediately informs, directly or through the Organization, the Party against whom the allegations are made.
2. The Organization shall carry out a verification of the substance of the allegation through consultation with the Parties concerned and submit a report thereon to the Parties.

Article 14

LIABILITY AND COMPENSATION

The Parties shall cooperate with a view to setting out, as soon as possible, appropriate guidelines for the evaluation of the damage, as well as rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes.

Article 15

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 to this Protocol may also hold extraordinary meetings in conformity with Article 18 of the Convention.
2. The functions of the meetings of the Parties shall be, *inter alia*:
 - (a) To keep under review the implementation of this Protocol, and consider any additional measures, including in the form of annexes;

- (b) To revise and amend this Protocol and any annex thereto, as appropriate;
- (c) To formulate and adopt programmes, methods and measures in accordance with the relevant Articles of this Protocol;
- (d) To consider any information submitted by the Parties to the Organization or to the meetings of the Parties in accordance with the relevant Articles of this Protocol;
- (e) To perform such other functions as may be appropriate for the application of this Protocol.

Article 16

ADOPTION OF ADDITIONAL PROGRAMMES AND MEASURES

The meeting of the Parties shall adopt, by a two-thirds (2/3) majority, any additional programmes and measures for the prevention and elimination of pollution from transboundary movements of hazardous wastes and their disposal.

Article 17

FINAL CLAUSES

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.
2. The rules of procedure and the financial rules adopted pursuant to Article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.
3. This Protocol shall be open for signature at Izmir on 1 October 1996, and at Madrid from 2 October 1996 to 1 October 1997 by any State Party to the Convention. It shall also be open on the same dates for signature by the European Community and by any similar regional economic grouping of which at least one member is a coastal State of the Protocol area and which exercises competence in the fields covered by this Protocol.
4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.
5. As from 2 October 1997, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Community and by any grouping referred to in that paragraph.
6. This Protocol shall enter into force on the thirtieth (30) day following the deposit of at least six (6) instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this Article.

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

DONE at Izmir on this first day of October 1996 in a single copy in the Arabic, English, French, and Spanish languages, the four texts being equally authoritative.

ANNEX I

CATEGORIES OF WASTES SUBJECT TO THIS PROTOCOL

A. HAZARDOUS WASTES

- Y0 All wastes containing or contaminated by radionuclides, the radionuclide concentration or properties of which result from human activity
- Y1 Clinical wastes from medical care in hospitals, medical centres and clinics
- Y2 Wastes from the production and preparation of pharmaceutical products
- Y3 Waste pharmaceuticals, drugs and medicines
- Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals
- Y5 Wastes from manufacturing, formulation and use of wood preserving chemicals
- Y6 Wastes from the production, formulation and use of organic solvents
- Y7 Wastes from heat treatment and tempering operations containing cyanides
- Y8 Waste mineral oils unfit for their originally intended use
- Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
- Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
- Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
- Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnishes
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
- Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
- Y15 Wastes of an explosive nature not subject to other legislation
- Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
- Y17 Wastes resulting from surface treatment of metals and plastics
- Y18 Residues arising from industrial waste disposal operations

Wastes having as constituents:

- Y19 Metal carbonyls
- Y20 Beryllium; beryllium compounds
- Y21 Hexavalent chromium compounds
- Y22 Copper compounds
- Y23 Zinc compounds
- Y24 Arsenic; arsenic compounds
- Y25 Selenium; selenium compounds
- Y26 Cadmium; cadmium compounds
- Y27 Antimony; antimony compounds
- Y28 Tellurium; tellurium compounds
- Y29 Mercury; mercury compounds
- Y30 Thallium; thallium compounds
- Y31 Lead; lead compounds
- Y32 Inorganic fluorine compounds excluding calcium fluoride
- Y33 Inorganic cyanides
- Y34 Acidic solutions or acids in solid form
- Y35 Basic solutions or bases in solid form
- Y36 Asbestos (dust and fibres)
- Y37 Organic phosphorus compounds
- Y38 Organic cyanides
- Y39 Phenols; phenolic compounds including chlorophenols
- Y40 Ethers
- Y41 Halogenated organic solvents

- Y42 Organic solvents excluding halogenated solvents
- Y43 Any congener of polychlorinated dibenzo-furan
- Y44 Any congener of polychlorinated dibenzo-p-dioxin
- Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

B. HOUSEHOLD WASTES

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

ANNEX II

LIST OF HAZARDOUS CHARACTERISTICS

<u>UN</u> <u>Class*</u>	<u>Code</u>	<u>Characteristics</u>
1	H1	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5 degrees C, closed-cup test, or not more than 65.6 degrees C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such difference would be within the spirit of this definition.)
4.1	H4.1	Flammable solids Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or in heating up on contact with air, and being liable to catch fire.

* Corresponds to the hazardous classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations, New York, 1988).

- 4.3 H4.3 Substances or wastes which, in contact with water, emit flammable gases
- Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
- 5.1 H5.1 Oxidizing
- Substances or wastes which, while in themselves not necessarily combustible, may generally by yielding oxygen, cause or contribute to the combustion of other materials.
- 5.2 H5.2 Organic peroxides
- Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
- 6.1 H6.1 Poisonous (Acute)
- Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
- 6.2 H6.2 Infectious substances
- Substances or wastes containing viable microorganisms or their toxins which are known or suspected to cause disease in animals or humans.
- 8 H8 Corrosives
- Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
- 9 H10 Liberation of toxic gases in contact with air or water
- Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
- 9 H11 Toxic (Delayed or chronic)
- Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.

9 H12 Ecotoxic

Substances or wastes which if released present or may present immediate or delayed adverse impacts on the environment by means of bioaccumulation and/or toxic effects upon biotic systems.

9 H13

Capable, by any means, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above.

ANNEX III

DISPOSAL OPERATIONS

The list of disposal operations contained in this Annex reflects those which occur or have occurred in practice. It does not necessarily reflect a list of acceptable disposal operations. Pursuant to Articles 5 and 6 of this Protocol, hazardous wastes must in any event be managed in an environmentally sound manner.

A. Operations which do not lead to the possibility of resource recovery, recycling, reclamation, direct reuse or alternative uses.

Section A encompasses all such disposal operations which occur in practice.

- D1 Deposit into or onto land (e.g. landfill, etc.)
- D2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)
- D3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
- D4 Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds, lagoons, etc.)
- D5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D6 Release into a water body except seas/oceans
- D7 Release into seas/oceans including sea-bed insertion
- D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A
- D9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A (e.g. evaporation, drying, calcination, neutralization, precipitation, etc.)
- D10 Incineration on land
- D11 Incineration at sea
- D12 Permanent storage (e.g. emplacement of containers in mines, etc.)
- D13 Blending or mixing prior to submission to any of the operations in Section A

D14 Repackaging prior to submission to any of the operations in Section A

D15 Storage pending any of the operations in Section A

B. Operations which may lead to resource recovery, recycling, reclamation, direct reuse or alternative uses.

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A.

R1 Use as a fuel (other than in direct incineration) or other means to generate energy

R2 Solvent reclamation/regeneration

R3 Recycling/reclamation of organic substances which are not used as solvents

R4 Recycling/reclamation of metals and metal compounds

R5 Recycling/reclamation of other inorganic materials

R6 Regeneration of acids or bases

R7 Recovery of components used for pollution abatement

R8 Recovery of components from catalysts

R9 Used oil re-refining or other reuses of previously used oil

R10 Land treatment resulting in benefit to agriculture or ecological improvement

R11 Uses of residual materials obtained from any of the operations numbered R1-R10

R12 Exchange of wastes for submission to any of the operations numbered R1-R11

R13 Accumulation of material intended for any operation in Section B

ANNEX IV (A)

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export;
2. Exporter of the waste 1/;
3. Generator(s) of the waste and site of generation 1/;
4. Importer and disposer of the waste and actual site of disposal 1/;
5. Intended carrier(s) of the waste or their agents, if known 1/;
6. Country of export of the waste
Competent authority 2/;
7. Expected countries of transit
Competent authority 2/;
8. Country of import of the waste
Competent authority 2/;
9. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit) 3/;
10. Means of transport envisaged (road, rail, sea, air, inland waters);
11. Information relating to insurance 4/;
12. Designation and physical description of the waste including Y number and UN number and its composition 5/ and information on any special handling requirements including emergency provisions in case of accidents;
13. Type of packaging envisaged (e.g. bulk, drums, tanker);
14. Estimated quantity in weight/volume 6/;
15. Process by which the waste is generated 7/;
16. Code according to ANNEX I, classifications according to ANNEX II, H number, and UN class;
17. Method of disposal as per ANNEX III;
18. Declaration by the generator and exporter that the information is correct;

19. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there is no reason to believe that the waste will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import;
20. Information concerning the contract between the exporter and the disposer.

NOTES

The Organization should make use of a Notification Form and accompanying documents such as those developed within the framework of the Basel Convention, the OECD and the European Community.

- 1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.
- 2/ Full name and address, telephone, telex or telefax number.
- 3/ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.
- 4/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.
- 5/ The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.
- 6/ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.
- 7/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

ANNEX IV (B)

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste 1/;
2. Generator(s) of the waste and site of generation 1/;
3. Disposer of the waste and actual site of disposal 1/;
4. Carrier(s) of the waste 1/ or his agent(s);
5. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste;
6. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated;
7. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable);
8. Information on special handling requirements including emergency provision in case of accidents;
9. Type and number of packages;
10. Quantity in weight/volume;
11. Declaration by the generator or exporter that the information is correct;
12. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties;
13. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.
14. The insurance documents, bond or other guarantee as may be required by the Parties, as provided in Article 6, paragraph 5.

NOTES

The Organization should make use of a Movement Document and accompanying documents such as those developed within the framework of the Basel Convention, the OECD and the European Community.

The information required on the Movement Document shall where possible be integrated in one document with that required under transport rules. Where this is not possible, the information should complement rather than duplicate that required under the transport rules. The Movement Document shall carry instructions as to who is to provide information and fill out any form.

- 1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.